EXHIBIT 1

TO DECLARATION OF ANDREW P. BLEIMAN, ESQ.

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In the Matter of:

HP TUNERS

vs

KEVIN SYKES-BONNETT and SYKED ECU TUNING INCORPORATED

KEVIN SYKES-BONNETT

May 16, 2019

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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON

AT TACOMA

HP TUNERS, LLC, a Nevada limited liability company,	)	
Plaintiff,	)	
vs.	)	No. 3:17-cv-05760-BHS
KEVIN SYKES-BONNETT and SYKED ECU TUNING INCORPORATED, a Washington corporation,	)	
Defendants.	)	

VIDEOTAPED DEPOSITION OF KEVIN E. SYKES-BONNETT, VOLUME II

May 16, 2019

Seattle, Washington

***** Confidential *****

REPORTED BY: Tracey L. Tracy, CCR, RPR

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Court Reporters & Video

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BE IT REMEMBERED that on Thursday, May 16, 2019, at 506 Second Avenue, Suite 3000, Seattle, Washington 98104, at 11:22 a.m., before Tracey L. Tracy, CCR, RPR, appeared KEVIN E. SYKES-BONNETT, the witness herein;

WHEREUPON, the following proceedings were continued, to wit:

<<<<<< >>>>>>

THE VIDEOGRAPHER: We're going on the record. The time is 11:22 a.m. on May 16, 2019. This is Volume II, Media Unit 1, of the video deposition of Kevin Sykes-Bonnett in the matter of HP Tuners versus Kevin Sykes-Bonnett, filed in U.S. District Court of Washington at Tacoma, Case No. 3:17-cv-05760.

This deposition is being held at 506 Second Avenue, Seattle. The videographer is Brett Whitney from Byers & Anderson. The court reporter is Tracey Tracy from Byers & Anderson.

Will counsel and all present please note their appearances and affiliations for the record.

MR. BLEIMAN: Good morning. Andrew Bleiman on behalf of the plaintiff HP Tuners.

MR. MANN: Good morning. I'm Phil

Mann on behalf of the defendants.

THE VIDEOGRAPHER: All right. The court reporter can swear in the witness.

KEVIN E. SYKES-BONNETT, having been first duly sworn by the Certified Court Reporter, testified as follows:

EXAMINATION (Continuing)

BY MR. BLEIMAN:

Q Good morning. Can you please state your full name and spell it for the record.

A Kevin Edward Sykes-Bonnett, S-y-k-e-s, hyphen, B-o-n-n-e-t-t.

Q All right. Mr. Sykes-Bonnett, as you know, my name is Andrew Bleiman. I represent the plaintiff HP Tuners. We are here today to continue a deposition that we had suspended on September 25th, 2018.

As you know, the court reporter swore you in, and you're familiar with the ground rules of the deposition in terms of, you know, one person talking at a time and -- and if you don't understand my question, let me know so that I can rephrase it. And if you need to take a break, let us know. You're familiar with those still?

A Yes, sir.

Q All right. Since September 25th, 2018, I believe you've had an opportunity to review your deposition; is that correct?
A Yes.
Q Okay. And since your prior deposition, you've had an opportunity to review different documents and communications and information that you have and that you've produced to the plaintiff in this case; is that correct?
A Yes.
Q All right. And since your prior deposition, have you had an -- an opportunity to review text messages between you and other people?
A Yes.
Q Since your prior deposition, have you had an opportunity to review e-mail communications between you and other people?
A Yes.
Q And since your prior deposition, have you had an opportunity to review Facebook Messenger communications between you and other people?
A Yes.
Q Since your prior deposition, do you agree that, you know, your review of various documents and communications has helped you refresh your recollection as to various

matters?

A Yes. Absolutely.

Q And do you believe -- or strike that.

Would you agree with me that you believe you're in a better position today and more well prepared to testify than you were when you first came in in September of 2018?

A Yes, absolutely.

Q In testifying today, are you -- do you believe that there may be areas of examination or questions that you would now clarify or correct, certain statements that you made, based on what you had previously said at that time?

A Yes.

Q And we'll go through a number of these issues here today.

So I want to back up. We had, I think, talked the first time and obtained some information about some of the initial early communications that you had had with Ken Cannata. Do you recall that?

A Yes.

Q Okay. Ken Cannata, when you first started your communications with him, what did you understand him to be?

A An owner of HP Tuners.

Q Okay. And you had engaged with him in some discussions about providing some information in exchange for some

payment; is that correct?

A Correct.

Q Okay. Now, subsequent to that transaction, did you remain in contact with Mr. Cannata?

A A couple of times I had, yes.

Q Okay. And so this would have been in late 2015, early 2016?

A Yes.

Q Can you tell me what communications, if any, you had with Mr. Cannata in -- well, strike that.

Did you reach out to Mr. Cannata in late 2015 or early 2016 or did he reach out to you to continue those communications?

A I reached out to him around November of 2015.

Q And what was the purpose of you reaching out to him?

A I was considering selling my software and the information that I had that went with the software, so I contacted him to see if HP Tuners would be interested in buying it all off of me.

Q And did you speak with him in late 2015 when you had approached him about this?

A Yes.

Q And what did he say to you in response?

A He told me he would be interested in potentially purchasing the software and information off of me and

asked me to e-mail him a list of everything and how much I would want for it.

Q And did you then subsequently e-mail that information to him?

A I did not.

Q Okay. Did you have any further conversations with Mr. Cannata in late 2015, early 2016 about selling him some of these assets that you had?

A In early 2016, Mr. Cannata contacted me asking me if I was still interested in selling my software. It would have been sometime, I believe, in February.

Q Okay. And did he say that he was contacting you on behalf of HP Tuners?

A He did not.

Q Okay. What did you tell him in approximately February of 2016 about whether you were interested in moving forward with a transaction or not?

A Told him that I was uninterested in selling the software any further, that I had acquired information on Ford and General Motors, and I was planning on implementing that into our software and continuing to press forward.

Q Okay. And in response to that, what did he say to you?

A He asked me if I had solved our hardware solution. I told him other than the Hypertech handheld we had not finished developing our own hardware. And he indicated

to me at that point that he was possibly going to get bought out from HP Tuners and that he would be interested in developing hardware for us, and he said after his noncompete was up that he would -- he would develop hardware.

Q At the time when he said this, was this approximately March -- or excuse me -- February 2016?

A Yes.

Q Okay. So in February 2016, Mr. Cannata advised you that he was potentially going to be bought out of HP Tuners?

A Yes.

Q Okay. And he -- did he offer -- well, strike that.

At that time during that call, he offered to help you solve your hardware solution issues?

A Yes.

Q At the time when he had this conversation with you, though, he had indicated that he expected that he would be the subject of some type of noncompete?

A I believe so.

Q Do you recall what he said in that regard at all?

A I don't recall the exact details. If I recall correctly, you know, he said as part of his buyout he's sure there would be some sort of noncompete, but he didn't know length of time or what all that would involve at that point.

Q After February 2016, pretty much to the present day here, May of 2016 [sic], you've remained -- remained in continuous contact with Mr. Cannata; is that correct?
A Correct.
Q And you've been communicating with him via phone, text and e-mail, among other potential methods of communication?
A Yes.
Q Okay.

MR. MANN: I hate to interrupt at this point, but point of clarification. Is any of this designated confidential or what's the --

MR. BLEIMAN: I think what we had agreed was that the whole deposition we'll designate for now as confidential, and then we can just discuss it later.

MR. MANN: Okay. Certainly. Thank you. I just wasn't sure whether we were getting into confidential matters or not, but --

MR. BLEIMAN: Right.

MR. MANN: I understand the whole deposition will be designated confidential at this time.

MR. BLEIMAN: Correct.

MR. MANN: Perfect. Thank you.

Q (By Mr. Bleiman) All right. So I want to focus now on

the time period between February 2016 and October 20th, 2016. During that period of time, you continued to have conversations and discussions with Mr. Cannata; is that correct?

A Correct.

Q And between that March twenty six -- or strike that.

Between that February 2016 time period and October 2016 time period, were you -- was Mr. Cannata performing any services for you or Syked ECU Tuning?

A Not that I recall.

Q Was Mr. Cannata communicating with you about helping Syked ECU Tuning or you with the development of your hardware solution?

A Yes.

Q Okay. So between that February 2016 and October 20th, 2016, period -- time period, what -- can you describe for me what the communications were between you and Mr. Cannata relative to him helping with the Syked ECU Tuning hardware solution?

A Can you repeat the question? I'm sorry.

MR. BLEIMAN: Can you read it back for me?

(Question on Page 341, Lines 15-19 read by the reporter.)

THE WITNESS: I mean, we -- you know, we discussed the development. We discussed the protocol communications and how we were going to develop that. You know, we discussed how long it was going to take to develop, you know, and get the reading/writing with the engine controllers. You know, just kind of a lot of general discussion. I can't remember any particular details. It would most likely be in the text messages or e-mails that have been produced.

Q (By Mr. Bleiman) Okay. So you -- you have produced your text messages from approximately December 29th, 2015, to March of 2017 from your phone devices; is that correct?

A Correct.

Q You've also produced text messages from approximately November 2017 to November 2018 from your phone devices?

A Correct.

Q And then there's a gap from approximately March 24, 2017, to November 17th I believe, or so, 2017. Do you have those text messages?

A I do not.

Q Do you know where those text messages might be or --

A They were on an iPhone 6 that I -- that I had or used up until recently, and when I went to go try to recover the text messages, it only went back to November of 2017, so that's what I had exported and produced as a PDF to you.

Q Okay. And the text messages that you have recovered that were -- that were produced to us, I think on Monday or Tuesday the -- May 14th, those were recovered by a service?

A Yes.

Q Okay. And those are all the messages that you've been able to locate?

A Yes.

Q And they've been produced in an Excel format?

A Yes.

Q And you have the documentation in that regard; is that correct?

A Can you clarify?

Q You possess the results of that vendor's search and have those records and you possess those records?

A Yes.

Q Okay. So I'd just ask you to maintain them. And I know they've been produced to us in, like, native format because they're very large files, but we just want to make sure that the documents do continue to be possessed by you.

A Yes.

MR. MANN: We will preserve them pending the outcome of this case.

Q (By Mr. Bleiman) And you also agree that those messages

that you've produced that have come to us in Excel format are authentic text messages from your devices?

A Yes.

Q Okay. All right. Now, I know that you had -- we previously talked a little bit about plaintiff's Exhibit 6.

MR. MANN: Thank you.

THE WITNESS: Thank you.

Q (By Mr. Bleiman) And this is a nondisclosure agreement between Ken and Syked Tuning Software; is that correct?

A Correct.

Q Now, this Syked Tuning Software, LLC, what is that entity?

A It should be Syked ECU Tuning. Oh, Syked Tuning Software was the original entity that was created for the software specifically.

Q Okay.

A If I recall correctly, we had a separate LLC, or originally it was Syked ECU Tuning, where I did calibration work and John and I's -- John Martin's and I's original agreement was, because he doesn't do any tuning or calibration work, that the calibration stuff would remain separate from the software as far as the financial and the dividends.

Q So is the typed -- is the Syked Tuning Software, LLC

still an entity to your knowledge?

A It is not.

Q All right. And this NDA was with Ken Cannata originally?

A Correct.

Q It's dated March 11, 2016?

A Correct.

Q So between February and March, you engaged in some communications, I'm presuming, with Mr. Cannata about getting him to sign an NDA; is that right?

A Correct.

Q And then subsequent to that, you signed this agreement with him and then started communicating with Ken Cannata on a more regular basis?

A Yes.

Q All right. Now, during this period of time between February 2016 and October 20th, 2016 -- and we'll get to some of the communications in a little bit -- are you aware of whether Ken Cannata had shared with you any intellectual property of HP Tuners based on your review of the various documents and information that you've reviewed since your last deposition?

A Up until this NDA was signed, I don't believe that he had.

Q Okay. Between the time of the NDA in March of 2016 and October of 2016, do you have a recollection of what

Mr. Cannata provided to you that was HP Tuners' intellectual property?

A He provided me the key generator that was on the thumb drive. He had provided me a version of 2.23, HP Tuners' source code project, and there were some other miscellaneous files that were also on that thumb drive.

Q Okay. I don't know the best way to kind of go through this, but -- because I don't -- the documents -- the text messages were just way too long to print. But it appears that in October of 2016 there's some text messages where you had requested CAN classes and the editor code from Ken. Is that -- do you recall that?

A I do recall that after reviewing it.

Q And it appears that Ken did send you various files in response to those requests; is that correct?

A Yes.

Q And I believe it was like VCM Editor; do you recall that?

A Yes.

Q cMPVI.cs?

A Yes.

Q cController.cs?

A Yes.

Q cVehicle.cs?

A Yes.

Q And so those would have been HP Tuners' source code files

that Ken provided to you prior to October 20th, 2016?

A Can you rephrase that or ask -- sorry.

(Question on Page 346, Line 25 through Page 347, Line 1 read by the reporter.)

MR. BLEIMAN: I think it was "those" would have been HP Tuners' source code files that Ken provided to you.

(Question on Page 346, Line 25 through Page 347, Line 1 read by the reporter.)

THE WITNESS: I would assume that they would have been included in the original source code project. I believe that I was asking him from what I remember -- because those files were missing out of the folder that I was originally -- of the original project that he had sent to me, and I was asking them whether they had been deleted, deliberately taken out by him. I'm not -- I'm not sure on that.

Q (By Mr. Bleiman) Okay. So -- well, strike that.

Ken had provided you with a flash drive with various intellectual property on it; is that right?

A Yes.

Q And then you followed up with him to say, Do you have these additional materials, and then he sent those

additional HP Tuners materials to you?

A Yes.

Q So, for example, on this --

MR. BLEIMAN: Well, can I have the stickers. I'll just take them cos I'll probably just... I'm going to mark Plaintiff's Exhibit 79.

MR. MANN: Thank you.

(Exhibit No. 79 marked for identification.)

Q (By Mr. Bleiman) So first, you recall that you produced your Facebook Messenger communications with Christopher Breton-Jean; is that correct?

A Yeah. I tried to read through it, and there was thousands of pages.

Q Understood. But part of the production in this case has been the messages that you exchanged with Mr. Breton-Jean on Facebook Messenger, correct?

A Correct.

Q And I printed out a couple of pages here that I've marked as Plaintiff 79 from the Facebook Messenger communications that you've provided. Do you see that?

A Yes.

Q All right. And do you recognize these to be Facebook Messenger communications between you and Christopher Breton-Jean?

A Yes.
Q All right. So then on October -- if you start at the bottom of the page, Christopher Breton-Jean makes a comment, something about HTP; do you see that?
A Yes.
Q And then you responded, I got even more code on how to do all the licensing now. Do you see that?
A Yes.
Q And that code that you would have received would have been the HP Tuners source code from Ken Cannata, correct?
A Correct.
Q All right. And then you, a couple of messages later, at 2:32 p.m., wrote, I can add unlimited -- I can add unlimited to anyone's cable. Do you see that?
A Yes.
Q And what is that a reference to?
A Unlimited credits.
Q Okay. And that ability to add unlimited credits was provided to you with this key generator that Mr. Cannata gave to you; is that right?
A Yes.
Q All right. And so you -- when you made these statements to Mr. Breton-Jean in October -- on October 17th, 2016, you already had this code in your possession; is that correct?

A Yes.
Q All right. We'll take a look at -- well, while we were -- while we were talking about kind of what you had been provided with, I know we looked at this -- this Exhibit 13 previously, but we'll go back to it.
MR. MANN: Thank you.
Q (By Mr. Bleiman) So Exhibit 13, we had talked about this is an image. And previously you had indicated in your testimony that you didn't recognize this to be an image of your computer screen.
Having looked back at the various documents and communications, do you now -- do you still believe that this does not represent an image of your computer screen?
A No.
Q So you do believe it is your computer screen?
A Yes.
Q Okay. And you belive that somebody took an image of your computer screen while you were on a TeamViewer session with them; is that correct?
A Correct.
Q All right. And so where it says Kevin PC, you would agree with me that this would reflect the way that your computer screen looked at -- at some point in time, presumably after August of 2017; is that correct?
A Correct.

Q And I say August '17 because I think that's the latest date amongst the folders, is there's a reference to August 19th, 2017, it looks like. Actually, it looks like there's a September date as well if you see that, so maybe it's September.

A It does look correct.

Q Okay. And so -- and if you look, there's a reference to a Lexar (E:) Drive; do see that?

A Yes.

Q What's is the Lexar (E:) Drive?

A That is a thumb drive used for storage of, you know, files, programs and such.

Q Is the Lexar (E:) Drive the device that Mr. Cannata provided to you prior to October 20th, 2016?

A Yes.

Q Okay. And on that Lexar (E:) Drive, there was various folders and files and programs; is that correct?

A Correct.

Q All right. And what Exhibit 13 appears to show was a folder entitled HPT Main HPT; is that correct?

A Yes.

Q And then these folders and files were within that folder HPT?

A Yes.

Q Okay. Now, these files and folders were on the flash

drive that Mr. Cannata provided to you; is that correct?

A Not all of them.

Q Okay. Why don't we go through and you why don't you tell us which folders, to the extent you can recall, were on the folder that he gave to you.

A So starting from the top working down, the Firmware folder, the Firmware Hack folder were both ones that he provided. The HP Tuners Decryptor was one that I had copied on there. The HPT Cloned Cable, that had a text document inside of it that just had a serial number of a -- of a cable that had been cloned. The HPT Cracked was not one that he provided, nor was the HPT ResourcesDB, looks like 2_ 26_2017; he didn't provide that one.

The KeyGenWindows folder was one that was provided. The License was one that was provided. The Lic -- or LicTransfer was one that was provided. The Shared, Ken Cannata provided. The VCM was provided. The ZF Checksum was not one that was provided. And then as you continue down the line of the individual files, those would all have been ones that were provided by Mr. Cannata.

Q Okay. What is this PDF document that's kind of blocked; do you see that, 03212007_148?

A I believe that was a Bosch document talking about CAN bus communications. That was directly from Bosch.

Q Okay. All right. So going back to this HPT Cloned Cable, was that something that Ken provided or no?

A It was not.

Q Okay. And when you say "cloned cable," what do you mean by that?

A It was -- they had a text document in there with a serial number and an application key on a cable that had been cloned.

Q And who had cloned that cable?

A Ken Cannata.

Q Do you know how Ken had cloned that cable?

A I do not. He had sent me a cloned cable to a specific serial number.

Q Okay. So at some point in time -- was this prior to October of 2016 or after?

A Before.

Q So before October of 2016, had you sent a cable to Ken to clone, or did he just send you a cloned cable?

A He sent me one. I did not send it to him at that point.

Q You would agree with me, though, subsequent to October 20, 2016, Mr. Cannata was -- or did also clone some cables for you that you had brought to him or sent to him? I saw some references in the text messages.

A I would have to look at the text message.

Q Okay. We'll re- --

A I don't remember the dates on that.

Q Okay. All right. And as far as this image of your screen is concerned, do you have a belief now as to who took this picture?

A Yes.

Q And who is that?

A Christopher Breton-Jean.

Q Okay. And you had engaged in TeamViewer sessions with him?

A I had, and I did not authorize, you know, him to, of course, record my screen, but we had engaged in TeamViewer sessions.

Q But you do acknowledge that the Exhibit 13 does reflect an image of your screen?

A Yes.

Q Okay. Show you what I've been -- I've marked as -- or we had marked and talked about previously as Exhibit 14. And Exhibit 14 is another image that we had previously looked at. Like Exhibit 13, you would agree with me that Exhibit 14 does reflect an image of your computer screen; is that correct?

A Correct.

Q And it shows the Lexar (E:) Drive and additional programs, files, folders that are within the HPT folder on that Lexar drive?

A Yes.

Q Okay. And earlier today when we talked about some of the dotCS files that you had requested, and I think even if you look at 13 as well, you know, the cCable.cs, cController.cs, cMPFVI.cs, those had been requested by you, and there were some text message communications between you and Ken about that, and then they also appear on this flash drive.

A Correct.

Q All right. And so if you run through these folders that we see on your computer screen here in Exhibit 14, can you tell us which ones came from Ken and which ones did not.

A Starting from the top down, the cVehicle.cs would have came from Mr. Cannata. Firmware Hack.rar is a folder in Exhibit, I believe, 13 that's just compressed. The FS cable serial and key was the -- the serial number and the key to the cable that I had posted up on social media that I was trying to sell. So that one did not come from him.

The two text documents that are labeled HPT Beta Serial Numbers did not come from him. The HPT.Communications.MPVI.MPVI.Firmw, that's a firmware file that came from him. Same thing with the one that says "test" right below it. HPT_CC_.PNG I don't recall

exactly what that was. The HPTBinary Swap V3.exe did not come from him. Interface Reprogramming.doc came from him. License Writer.exe, Licensetransfer.exe both came from Mr. Cannata. The two MPVI Protocol.docs came from him. P32ALGO.ASM had came from him. And then below it there's a bunch of them that are labeled VCM Suite ending with a dot msi, all those ones had not came from him.

Q What were those files?

A The VCM Suite.msi?

Q Yes.

A Those are install files for production files that HP Tuners releases.

Q And then there's a VCM.zip and a VCMSuite at the bottom.

A The very, very bottom VCMSuite, I believe that's just another install. It's cut off so I can't tell. The VCM.zip I believe was the initial source code project that he had sent me for Version 2.23.

Q So that would have been -- that VCM.zip was from Ken?

A Yes, I believe so.

Q And talk to me -- or strike that.

What did -- these MPVI Protocol docs, what were those?

A It would have been the communication protocol used to talk to the actual MPVI hardware as far as, you know, communicating to get the serial number or the hardware

version or firmware version, things along those lines.

Q And this would have been among the materials that was provided to you initially on the flash drive prior to October of 20 --- October 20th of 2016?

A I believe so.

Q And the License Writer.exe and the license transfer files, what were those?

A I don't recall exactly what they were. I believe that I ran them one time, and I think it transferred the licenses, from what I recall, from one MPVI cable to another MPVI cable.

Q Okay. And what about the Interface Reprogramming doc?

A That one I never really looked through a lot. I know it was used to reprogram firmware. That's what I recall on that.

Q So then like the binary swap was not a document that was provided by Ken. Where would you have gotten that from?

A So that's a utility. When we had reverse engineered the production version of HP Tuners software, I created that utility to swap the binary file out of the saved file that's used to tune a car.

Q And when you say "we," that was you and Christopher Breton-Jean?

A Correct.

Q Was anyone else involved in that reverse engineering?

A No.

Q And so essentially any of the other, like, documents or folders like this on Exhibit 13 where it says cloned cable or cracked and the resources, was that all work product that you and Christopher Breton-Jean created?

A Yes.

Q Was John involved in any of that?

A No.

Q And the ZF Checksum, was that something that Christopher Breton-Jean and you did?

A I don't recall exactly what was in that folder. I believe that it would have been though.

Q Okay. Did the source code allow you to do that reverse engineering?

A No.

Q Okay. That was just from the published version; you just decompiled it and then worked on it from there?

A Correct.

Q All right. And as far as Exhibit 14 is concerned, the image that -- of your computer screen, you believe this was also taken by Christopher Breton-Jean?

A Yes.

Q All right. Looking at Exhibit 15. It's another image we looked at before. You would agree with me that this also reflects an image of your computer screen; is that

correct?

A Yes.

Q And then you would agree that -- or you believe, I should say, that Mr. Christopher Breton-Jean also took this image?

A Absolutely.

Q Okay. And this shows the key generator tool?

A Yes.

Q And that key generator tool would have been the tool that Mr. Cannata provided do you?

A This particular screen that you're seeing is referred to as a GUI, and this would not have been provided.

Q Okay. What is this?

A So when he provided me the utility to generate the license key, it was in a command prompt format, which you have to run in DOS and pass a set of variables or parameters. This utility is a Windows GUI utility that I wrote to make it easier to generate license keys that would communicate directly with the command line program that was the key generator that was provided to me by Mr. Cannata.

Q So the key generator that he provided you with required you to develop -- develop a GUI to generate the licenses?

A Not exactly.

Q Okay. Explain it, please.

A So if I opened up a Windows command prompt and I called the program that was provided to me by Mr. Cannata, I could then go in and I could pass in the serial number, the tuner lock ID, the number of GM credits, number of Ford credits, the number of Dodge credits in a DOS screen.

It's a lot more time consuming, a little bit more difficult to do, so to make it easier for me so I wasn't in command line and doing DOS, I wrote a separate utility that communicated directly with that command prompt utility that was provided.

Q But without the key generator tool, you could have had this GUI, but you wouldn't have been able to write additional licenses?

A Correct.

Q You needed the key generation tool in order to then generate the licenses?

A Correct.

Q So this was really just the mechanism by which you generated the licenses?

A Correct.

Q Okay. All right. I'm going to show you what's been marked as Plaintiff's Exhibit 16, previously marked as Plaintiff's Exhibit 16.

And this is an image we had previously looked at.

And would you agree with me now that this does reflect an image of your computer screen?

A Yes.

Q And I know previously you had said it did not, but you're correcting that testimony?

A I am, yes.

Q Okay.

A After going back and reviewing, I was able to -- to locate some of the things that were on here to validate that this is indeed my computer screen.

Q And the same thing goes for Plaintiff's 13, 14 and 15 in terms of those images?

A Yes. Based on the Plaintiff Exhibit 16 that I'm looking at and looking at these other exhibits, I believe that they're all of my computer screen.

Q And so this is that GUI that we had talked about, correct?

A Correct.

Q And this would have been an image that Mr. Breton-Jean took during a TeamViewer session with you?

A Yes. Absolutely.

Q And you would recognize those icons now at the bottom left-hand corner?

A Yes.

Q Okay. There was a file here -- well, strike that.

Based on your review of this image, do any of the folders or files that you see on here represent information that Mr. Cannata had provided to you?

A (Witness peruses document.) No, I don't believe so.

Q And the information from the flash drive -- I know we talked about last time that it was destroyed with a hammer and cracked into pieces, and we've talked about that before -- between your deposition and today, have you been able to locate any copies of any of these folders, files, information on any of your other computers or devices at any time?

A I have not.

Q You don't currently possess, to our knowledge, any of the information that Mr. Cannata provided to you?

A Sadly, I do not.

Q Okay. All right. Take a look at Exhibit 80.

(Exhibit No. 80 marked for identification.)

Q (By Mr. Bleiman) On Exhibit 80 you had -- on December 26th at 11:12 a.m., you had written to Mr. Breton-Jean: I have the code to push it onto the MPVI. Do you see that at the top of the page?

A Yes.

Q What are you referring to there?

A The firmware flasher.

Q And what is that?
A I believe -- I believe it was a firmware flasher, and that allows you to flash firmware onto -- to an MPVI cable.
Q And where would you have received that firmware flash?
A Ken Cannata.
Q And was that among the terms that was on the initial flash drive that Mr. Cannata provided to you, or was this something that he provided to you subsequent to the initial information that you received?
A I think it was on the original thumb drive that he had provided, but I don't recall exactly.
Q Taking a look now at Plaintiff Exhibit 81.
(Exhibit No. 81 marked for identification.)
Q (By Mr. Bleiman) This is more communications between you and Mr. Breton-Jean; is that correct?
A Correct.
Q All right. And so it appears as though you had indicated, There's a way to dump firmware through serial port on the MPVI. Do you see that?
A Yes.
Q What are you referring to there?
A And so through the, you know, February, March of 2016 through December 27th when I wrote this, Ken and I had

talked about the guy that was cloning the cables, and he had indicated to me that it was being pulled out through the serial port on the MPVI.

Q Okay. And then you sent Mr. Breton-Jean a file there at the top of the page at 12:06 p.m.; do you see that?

A Yes.

Q And that -- that was an admin version of that VCM Suite?

A That was a Version 2.25.2033, executable version of the admin software, correct.

Q And who did you receive that file from?

A Ken Cannata.

Q And would that have been provided to you on the initial -- with the initial materials, or was that something that -- I mean, you were just sending this to him in December of 2016. Is this something that was provided to you after the initial materials were provided to you?

A I want to think that this was sent to me separate, but I don't recall exactly.

Q How were you communicating with Mr. Cannata, you know, since your -- the start of your communications?

A Primarily via text message or talking on the phone.

Q Okay. Did you exchange e-mails? I know there's a number of references in the e-mail -- I mean in the text messages to check your mail and e-mails and things like

that.

A We had, yes.

Q Okay. And what e-mail addresses were you communicating to Mr. Cannata at?

A I think at that point it would have been sykedecutuning@yahoo.com.

Q Okay. But what e-mails was Mr. Cannata using?

A It was one of the ones that we had question -- you asked me about before. I think it was Ken_Cannata or kenandbobbiecannata. I want to think it was at AT&T. And then I think -- excuse me -- I think he went over to Charter or vice versa.

Q Okay. Did you or Ken ever use any other e-mail addresses to communicate with each other at any time?

A Yes.

Q And what were those e-mail addresses?

A We had -- I had used fhptuners@yahoo.com. And I got responses from him, Ken Cannata, and it was somethingnew1892@yahoo.com, if I recall correct.

Q Somethingnew --

A I believe it was 1892@yahoo.com.

Q Okay. And when were those e-mail addresses set up?

A That would have been in early 2016. I believe April.

Q So between April and when were those e-mail addresses being used?

A It was used maybe a handful of times between April of 2016-ish through -- last time was January 9th of 2017.

Q Have you been able to locate any e-mails that were sent by you from that address to Ken at the somethingnew1892@yahoo.com address?

A Yes.

Q Okay. Do you have copies of those e-mails?

A Yeah. We tried to print some copies off. A couple of them printed decent, and then a couple of them didn't print as decent.

MR. BLEIMAN: Maybe we'll take a break and see what we got there, but we can keep going for now.

MR. MANN: Mm-hmm.

Q (By Mr. Bleiman) So when you were communicating with this somethingnew1892@yahoo.com address, you understood who was on the other end of that e-mail communication, correct?

A Correct.

Q And how do -- how do you know who was on the other end of that e-mail communication?

A Well, two -- two reasons. The first e-mail that was sent from the 18 -- somethingnew1892 to me, it says, Hey, it's Ken. And then looking back through the text messages towards the end of 2016 -- I don't remember the exact date -- Ken sends me a text message saying, Check FHPT,

indicating to check the FHPT e-mail account.

Q Got it. So, for example, on November 10th, 2016, in the text message production Ken wrote a text to you saying, Check FHPT?

A Correct.

Q And that was a reference to you to check your fhpttuners@yahoo.com e-mail address?

A Yes.

Q Understood. Okay.

MR. MANN: Off the record.

(Discussion off the record.)

THE VIDEOGRAPHER: All right. We'll go off the record. The time is 12:16.

(Recess from 12:16 p.m. to 12:54 p.m.)

THE VIDEOGRAPHER: All right. We're back on the record. The time is 12:54.

EXAMINATION (Continuing)

BY MR. BLEIMAN:

Q All right. So we were reviewing some of the Facebook Messenger communications between you and Mr. Breton-Jean. I'll mark this as 82.

(Exhibit No. 82 marked for identification.)

Q (By Mr. Bleiman) And please confirm that's more Facebook Messenger communications between you and Mr. Breton-Jean.
A Yes.
Q And it appears that on December 27, 2016, at 7:16 p.m., did Mr. Breton-Jean send you an application key?
A Yes.
Q Okay. What -- what was that -- what was the purpose of that?
A He was trying to figure out how the application keys were encoded, so he took an application key through the reverse engineering that we had done and had made a single change to it and wanted me to test it on my end to see if it would validate and indeed license a vehicle or add credits to it.
Q And did it work?
A No.
Q Okay. All right. And then it looks like on December 27th, 2016, at 9:46 p.m. you sent Mr. Breton-Jean a file: Can you patch this one. A few newer and has zf8 in it, please?
A Yes.
Q Okay. And that's an admin version of the VCM Editor?
A No.
Q What is that?
A This would have been a production version of their

standard VCM Editor that I had compressed down.

Q Explain that to me.

A So I had taken the standard executable program that -- you, that you would double click on to run on your computer. I had zipped it down into a folder and sent it over to him, so it wasn't any source code or an admin version.

Q Got it. Okay. And when you say patch a version, what does patch mean?

A There's -- there's beta versions of the software that will allow you to use specific features. The zf8 at this point in time I believe was a beta, and you had to have a beta key or it needed to be patched as far as to bypass the requirement for it to be beta in order to use it. And so I had sent it to him and asked him to do that.

Q Okay.

A Did that make sense?

Q Is patch basically hack?

A It's -- in a way.

Q Okay. I'm going to show you Exhibit 83.

(Exhibit No. 83 marked for identification.)

MR. MANN: Thank you.

Q (By Mr. Bleiman) And here on December 28th 2016, you were Facebook Messaging with Mr. Breton-Jean still?

A Yes.

Q And you had asked him, I need to send an e-mail that's not trackable, although you misspelled that word, correct, at 12:35 p.m.?

A Yes.

Q And was this relating to the dummy e-mail addresses that we talked about earlier with you and Ken?

A After going back and reviewing, no, I don't believe so.

(Portion of deposition excerpted in separate transcript.)

Q (By Mr. Bleiman) So this did not relate to non-HPT-related communications?

A Correct.

Q Did this relate to the Lani Carney issue?

A No.

Q Okay. We'll get to -- get to that later.

All right. And also, based upon what we now have learned, you had been communicating with Ken via those Yahoo addresses since April of 2016, correct?

A Correct.

Q All right. I'm going to show you what you just provided me with here during the break. And this is marked as Plaintiff 84.

////

(Exhibit No. 84 marked for identification.)

Q (By Mr. Bleiman) And this is a printout of the -- I guess the home screen, if you will, for the fhptuners@yahoo.com e-mail address?

A Yes.

Q And this contains communications that started on April 8th, 2016, through January 9th, 2017, correct?

A Yes.

Q And aside from these e-mails, were there any other e-mail messages that you had used this account to communicate for that you'd previously deleted?

A Not to my knowledge.

Q Okay. And you didn't see any e-mails in any trash folder associated with this account, did you?

A I did not.

Q And the Dale referenced here, Dale Earhharddt or Dale, that is Ken, correct?

A Correct.

Q So it appears that on the first message from April 8th, it looks like, 2016, this inbox appears to be showing the messages in like a conversation mode; is that right?

A Yes.

Q And so there's like five e-mails within that first message at the bottom?

A Yes.
Q And then there's, it looks like, another five messages under that "interesting read" message above it from 4/15/2016?
A Yes.
Q Okay. And then you've got e-mail -- two e-mails in this conversation with some attachments from May 20th, 2016, that's entitled "util class." Do you see that?
A Yes.
Q Can you tell me what your recollection is of what that message for the util class related to?
A I believe it was a message about a couple specific classes that are an HP Tuner source code.
Q Okay. And do you recall what the attachment was that was sent with that util class e-mail?
A I don't remember the exact names without going back and looking.
Q So as part of providing these e-mails just now during the break, you did forward various of these communications to me and your attorney, correct?
A Correct.
Q And the -- under the util class e-mail there appears to be an attachment vcm.zip. Does that refresh your memory?
A Yes.
Q And what was the vcm.zip, to the best of your knowledge?

A If I recall correctly, that would have been a source code project of HP Tuners.

Q Okay. And that was provided to you in May of 2016?

A Yes.

Q Through this fhptuners@yahoo.com e-mail address?

A Yes.

Q The next message appears to be, Happy Friday from Dale Earhharddt?

A Yes.

Q And it says, NGC3 read packet size must be an even number?

A Yes.

Q What is that referring to?

A So from what I recall on this, this is not a source code file, but it is the source code that was copied and pasted out of a file that was sent to me. And referencing the NGC3 would be an older Dodge controller.

Q Okay. I will note, I don't think this e-mail was forwarded, but we can do that at the next break. I don't recall seeing a "Happy Friday" one. Let's make a note of that.

A Okay.

Q So that was an e-mail Ken sent to you with source code information but not a file?

A Correct.

Q All right. And then the Dale Earhharddt junk e-mail, from July 22nd, 2016, do you know what that one is?
A I think that was one I had forwarded to you as well. I don't remember what the attachments were on it.
Q I don't see that one either. We'll make sure we get all these. But the e-mails and the attachments, whatever they are they are, correct?
A Correct.
Q And then on October 16th, there's a "something stinks" message from Ken to you?
A Yeah. I think that would have been some other source code files, but I don't remember exactly which ones.
Q So based upon what you sent me, it appears as though the attachments were cVehicle.cs and cController.cs?
A Sounds correct.
Q Okay. And those would have been HP Tuners' program files from Ken, correct?
A Correct.
Q Or is that source code?
A Source code, yeah.
Q All right. And then there's an e-mail from shaun@aedhp.com?
A Yes.
Q What does that relate to?
A That is a tune file that was exported out of SCT's

software where he had implemented one of their encryption routines to lock down the tune file, and he wanted to see if I could break it.

Q Okay. The next e-mail is a Dale Earhharddt October 10th, 2016, entitled "FYI"?

A I see November 10th.

Q I'm sorry. November 10th.

A Yes.

Q And then you'll remember when we talked earlier, you had said that looking back at these texts, that you had produced -- for example, on the November 10th, 2016, text message, Ken said to you, Check at FHPT?

A Yes.

Q And here there's an e-mail from that same date?

A Yes.

Q Okay. And attached to that file appears to be various source codes files, flasher, cVehicle, cController, frmflash. Does that sound correct?

A Sounds correct.

Q Okay. And then there's another e-mail that's entitled "test" from November 12, 2016.

A Yep.

Q Okay. That I believe has not been forwarded. There seems to be six messages in that chain.

A Okay.

Q But I think there were certain files in there that are not HPT related; is that correct?
A Yes. I believe so.
Q All right. So what is your understanding of what was in that test based upon what you reviewed?
(Portion of deposition excerpted in separation transcript.)
Q (By Mr. Bleiman) All right. And so that test e-mail didn't relate to HPT files?
A It did not, no.
Q Okay. And then the last e-mail was from Dale Earhharddt, Ken Cannata, January 9, 2017, asdf123.
A Sounds right. Looks like.
Q And then there's some attachments to that, correct?
A It looks like there's a file attached.
Q And there's a file appkey.xls?
A Yes.
Q That's an Excel sheet --
A Yes.
Q -- related to the application key?
A Correct.
Q Can you tell me what you recall that to be?
A As I recall, that was a breakdown on how the application key was calculated.

Q Okay.
A And the -- the logic behind it.
Q Okay. And then there's an interfacereprogramming.doc, correct?
A Correct.
Q And that's an HP Tuners document?
A Correct.
Q Now, with regard to any of the e-mails that you sent, there's nothing in those e-mails to your knowledge that is highly confidential for purposes of our case; is that right?
A There's -- there's a few files that we discussed that are not related to HP Tuners.
Q I'm sorry. My question may not have been clear. I'm sorry to cut you off.

In terms of what you forwarded to me, were there any files attached to those e-mails that would have been -- that you would designate as highly confidential?
A If it's related to HP Tuners, no.
Q Okay. I think there was one e-mail that -- from what it looks like, it's called Syked.doc, but it just appears to be the HP Tuners document with Syked's name on it. Are you aware of that document?
A The name of the document sounds familiar, yes.
Q I'm trying to find it.

A I believe that was the initial protocol doc that Ken had sent over.

Q Which was an HP Tuners -- I'm not seeing it. Oh, on the e-mail that's forwarded e-mail from part of that April 8th chain, there appears to be a Syked.doc, but it looks to be HP -- similar to the HP Tuners interface reprogramming doc. You'll look at it and let me know, but at this point do you think any of this stuff is --

A No, I don't believe so.

Q Okay. -- attorneys' eyes only?

A Yeah, I don't believe so.

Q Okay. All right. Okay. So now, just for purposes of administrative, what we had talked about doing because of the fact that there is some HP Tuners information on here, we need to either delete it or, you know, maybe we can put Phil in charge of the e-mail account so only he has access to it, like a password, change the password or something? We can --

MR. MANN: Yeah, I'm not sure exactly how we do this, but --

MR. BLEIMAN: We'll -- we'll figure something out.

MR. MANN: Yeah.

MR. BLEIMAN: Okay. I just don't want to -- I don't think we necessarily want to delete the

e-mails, but we do not -- per the court's order in terms of the HP Tuners IP, we just want to get it out of Kevin's domain.

MR. MANN: Gotcha.

Q (By Mr. Bleiman) All right. So then looking at Plaintiff 85.

(Exhibit No. 85 marked for identification.)

Q (By Mr. Bleiman) This is a screenshot of one of the e-mails that I think we were just talking about from April 15, 2016. And there's an unsupported file, it looks like, correct?

A Correct.

Q And that -- can you tell me what that unsupported file is?

A Controllerflasher.exe. What it was is it was a flashing utility that was separate from the VCM Editor program that allowed reprogramming of the -- of the engine controllers.

Q Okay. And that's an HP Tuners file?

A It's an HP Tuners program.

Q Incidentally, I mean on this one it says John Beavis; do you see that?

A Yes.

Q What's that?

A That's the name I created when I created the e-mail account.

Q All right. So where it says John, like in the upper right on these images, that's just related to that fake name?

A Correct.

Q And then there's the e-mail address fhptuners@yahoo.com?

A Correct.

Q And then that's your phone number?

A Yes.

Q Here are some -- well, why don't we mark this -- 86 is highly confidential -- as long as we're talking about it. And so we'll just ask you a few questions.

(Exhibit No. 86 marked as confidential in separate transcript.)

Q (By Mr. Bleiman) Because I think this is the e-mail that you were referring to with the Dodge and Chrysler information --

A Correct.

Q -- that shows those attachments?

A Correct.

Q Okay.

A So one, two, three, four, five, so all six of those attachments --

Q Right.
A -- if they are in the forwarded e-mail, they need to be highly confidential.
Q Yeah. We didn't -- I haven't gotten these attachments --
A Okay.
Q -- yet. All right. And then here is the 87, Plaintiff's 87.

(Exhibit No. 87 marked for identification.)

Q (By Mr. Bleiman) So this is the asdf123 e-mail, January 9, 2017, and there it's got the appkey.xls and the interface reprogramming document; do you see that?
A Yes.
Q Those are the attachments to that e-mail.
A Yes.
Q There's a copy.

Okay. I'm going to show you what I've marked as Plaintiff 88.

(Exhibit No. 88 marked for identification.)

Q (By Mr. Bleiman) This is something you also provided to us this morning. And this appears to be what?
A So this is the source from the e-mail that includes the appkey.xls. For whatever reason, when it printed off it cut off part of it, but it shows the IP addresses that

were used to send the application key back and forth. We'll probably need to reprint that.

Q Which -- where do you see the application key?

A If you go about 7/8ths down the page on the left-hand side, it says, "file name = 'AppKey.xls.'"

Q Yeah.

A And then the IP address should be further towards the top on the left-hand side, but it got cut off during printing. It's in the screenshot.

Q Okay. So maybe during a break we'll try to print it like we did these other ones.

A Okay.

Q I guess let's look at Plaintiff 89 as long as we have it.

(Exhibit No. 89 marked for identification.)

Q (By Mr. Bleiman) What is Plaintiff's 89?

A This is the source code from the e-mail dated January 10th, 2017. Again, it got cut off during printing. I believe that I printed it to show the IP addresses that were used as well.

Q Got it. Okay. So we'll get better copies of these. All right. So now let's take a look at Plaintiff Exhibit 90.

(Exhibit No. 90 marked for identification.)

Q (By Mr. Bleiman) All right. So this is more Facebook Messenger communications between you and Mr. Breton-Jean?
A Yes.
Q And then on December 31st at 12 -- at 2:46 p.m., Mr. Breton-Jean says to you, Which -- which he spelled wrong -- cable are you sending to me finally; do you see that?
A Yes.
Q And then you wrote, The admin one. John took the other one because he has to get the writing working and once that's done we can swap them out. Do you see that?
A Yes.
Q What -- what admin cable are you referring to?
A I believe it was just a regular cable but with a serial number 0123456789. I think at the end of the day I didn't send him that particular one. I think I sent him another one that had just a random serial number on it.
Q All right. So the admin cable that we're talking about would be an HP Tuners admin cable for use with the VCM Suite software?
A Yeah. It was referred to me from Ken as an admin cable based on the specific serial number 0123456789.
Q So an admin version of the MPVI?
A Correct.
Q And was the MPVI being used to develop or to assist in

the development of the Syked ECU Tuning software?

A Not a normal MPVI.

Q An admin version of the MPVI?

A No.

Q Okay. What type of MPVI was being used to assist in the development of the Syked ECU Tuning software?

A So the MPVI hardware itself was a normal production MPVI. Ken had at that point modified the firmware for our communication protocols, had removed the seed and key that required an unlock in order to communicate through the hardware to the vehicle and made several other changes to the firmware, flashed in a custom firmware which was intended to be the eliminator firmware, and that was used.

Q Okay. Let me make sure I understand this. HP Tuners' interface is known as the MPVI, correct?

A Yes.

Q All right. And the MPVI, just the regular MPVI, was -- well, strike that.

Ken modified HP Tuners' MPVI to then be used with the Syked ECU Tuning software?

A Yes.

Q And how did he modify the MPVI to then use it with the Syked ECU Tuning software?

A So when initially talking to Ken, one of the things that

I was concerned about was, you know, turning around and using HP Tuners' source code basically line for line, including firmware. He assured me that he was going to develop an entirely new set of firmware. And while he -- while he was developing the hardware, he would write the firmware loaded into the MPVI hardware that was eventually going to be used for the eliminator cable.

So the hardware was the MPVI, but to my understanding, based on what he said, the firmware he had written from scratch and loaded onto the MPVI. So it wouldn't have been the HP Tuners firmware that was being used in the hardware.

Q Okay. And do you know, you know, between the time that you started dealing with Ken until today, whether Ken possessed the HP Tuners MPVI firmware?

A He wrote it, so at some point, I mean, he would have had to have possessed it.

Q Right. But does he -- does he still possess it to our knowledge?

A I'm not -- I don't know.

Q Okay. Now, when you were developing the communications of Syked -- I guess the -- strike that.

When you were involved in the communications protocol of the Syked ECU Tuning software, did you refer to the HP Tuners source code on the flash drive?

A For the protocol communication, I don't recall -- I guess can you elaborate on the question?

Q When you were developing the communications of Syked software, or I guess how the software communicates with the interface, did you refer to HP Tuners' source code on the flash drive?

A Yes.

Q How so?

A So on the -- on the MPVI, you initially have to communicate to an FTDI chip, which is an aftermarket chip that communicates to the USB bus. In doing so, I needed to know what vendor ID or product ID was being used to communicate to the FTDI chip because it was a hardware with a -- with the FTDI chip programmed as if it was an HP Tuners device. So while the firmware, I was told, was different, the FTDI chip was still programmed just like it would if it was an HP Tuners production.

Q So the FTDI chip of the interface you were using that Ken provided was the same as the FTDI chip of the HP Tuners interface?

A Yes.

Q And so in order to figure out that communication, you had to refer to the source code that Ken gave you to figure out that communications protocol?

A Yeah, just to connect to the device through the USB port.

Q Is that something you could have figured out without the source code?

A Yes.

Q By reverse engineering?

A You can do that, or if you plug the MPVI into the USB, you can go into device manager and you can find the vendor IDs that way, which I know now. I did not know at the time.

Q Okay. So at the time when you did this, you needed the source code in order to figure out how to connect to the device?

A Yes.

Q Now, the firmware that Ken was writing, what information do you have to understand whether the firmware of the HP Tuners MPVI is the same as the firmware for the Syked eliminator cable that Ken was developing for you?

A The only thing I have would be the eliminator protocol document that breaks down how the packeter assembled them, you know, what byte does what. I believe that's been produced to you.

Q I don't know if it has or not, but if not, let's -- maybe we can see that. But is that -- are those eliminator protocol documents something that Ken provided to you?

A It's something that we -- I believe it was initially provided to us. I think it was at Syked.doc. And then

you know, we had worked on it at different points in time and made modifications to it as we were developing the communication protocol.

Q Now, it's your understanding that when Ken was developing the cable and the firmware, he started with the HP Tuners firmware and then made certain modifications to it to make it different, and I've seen that in some of the text messages. Is that what your understanding was?

A I don't recall exactly if that's what he had done. One thing I made very clear is I wanted it to be different. You know, I didn't get a chance to read back through all the text messages, so if that's what it indicates in there, then --

Q We'll go through them here in a minute. Okay.

I'm going show you what I've marked as Exhibit 91.

(Exhibit No. 91 marked for identification.)

Q (By Mr. Bleiman) So on Exhibit 91 -- and I think we need to look at Exhibit 87 as well. Can we look at both of those?

A (Witness complies.)

Q All right. So first on 91 you wrote to him -- it's not on here, but you had written to Mr. Breton-Jean, I'll represent to you, at 11:25 a.m.: I can make an -- a app key now. Okay? There's another page that didn't get

copied here.

A I'm sorry. What time?

Q Well, it was at 11:25. I don't have that printed for some reason. I don't know where it went.

A Okay.

Q And then you proceeded to have a conversation with Mr. Breton-Jean about generating application keys for him. And you told him here, I can't give you the key generator, at 12:02 p.m. Do you see that?

A Yes.

Q And then you say at 12:04, Just like the other MPVI code I have. I can't share it. I'm under a contract and NDA. You know that. Do you see that?

A Yes.

Q And what MPVI code are you referring to?

A The -- the MPVI code is probably something to do with the firmware or the firmware flasher, something like that.

Q The materials that Ken had provided to you?

A Yes.

Q Okay. And then you talk about here selling credits and whatnot. Now, you recall, there were some communications between you and Ken about using some foreign entity or someone foreign to sell credits?

A I briefly recall something about that.

Q Were there conversations with -- between you and Ken

about generating keys to sell credits to third parties, HP Tuners' credits?

A Yeah, at different points there had been.

Q And what was the purpose of doing that?

A The one text message that I recall would have been after this litigation started, and he told me to go sell credits to pay for my attorney.

Q Okay. And if there are other text messages about, you know, using foreign people to sell text messages, I mean, they're in the text messages themselves, correct?

A Yeah, they would be.

Q Okay. So, for example, on like October 30th, 2016, there's a text message from Ken to you. And I'll read it to you: They are going to take a major financial hit on income just like SCT. We can offer licenses for HPT through foreign sources and we get paid, not them. Do you see that?

A Yeah.

Q I mean, do you recall that?

A I do recall that.

Q Okay. And so -- I mean, this is 10 days after his transaction with HP Tuners. Are you aware of that?

A Yes.

Q Okay. So he was already plotting to try and sell licenses for HPT through foreign sources. Did that ever

happen?

A Did -- did Ken ever?

Q Did you and Ken ever arrange through foreign sources to sell credits to third parties?

A Not to my knowledge.

Q All right. So if you look then at this Exhibit 91, and you're talking about being able to generate application keys, and then on 87, the day before, on the 9th of January is when you got this Excel file from Ken on the appkey.xls?

A Yes.

Q So by virtue of getting this document, is that what then gave you the ability to start generating keys even though you had previously been provided with the key generator?

A No. The -- the appkey.xls gave me the understanding of how the application key was calculated versus the application key generator was -- you know, it was already in a project.

Q Okay.

A So this -- and Keith might be able to elaborate further on what it is. I don't recall exactly, you know, what was in the xls document, but it was more of a breakdown on the logic and the methodology behind doing it as opposed to generating the keys with the program that generates the keys.

Q I guess what I'm trying to understand is, before January 9th, could you generate keys?

A Yes.

Q Okay. And so then you were just telling Mr. Breton-Jean on the 10th that you can generate keys and the day before it was just coincidental that he had gotten you this spreadsheet?

A That he had given me the spreadsheet.

Q Okay. Got it. All right. Here's Plaintiff 92.

(Exhibit No. 92 marked for identification.)

Q (By Mr. Bleiman) And this is more Facebook Messenger communications, correct?

A Yes.

Q All right. And so you had sent a couple of different application keys, it looks like, to Mr. Breton-Jean correct?

A Correct.

Q And also generated credits for him. I think he wanted 1,000/1,000/1,000, but it looks like maybe you didn't generate that many initially?

A Initially, no.

Q Okay. And then what -- how many did you ultimately generate for Mr. Breton-Jean?

A At the end of the day, 1,000/1,000/1,000.

Q Now, you know that we had -- in some of the subsequent e-mails you -- or time period between your deposition and now, you had gone back and looked at -- for additional records relating to who you had generated keys for?

A Yes.

Q And Mr. Breton-Jean was one that you had given keys to, correct?

A Correct.

Q And then there were some other -- couple other folks that you had given keys to, correct?

A Correct.

Q And there were some folks that you had sold keys to, correct?

A Correct.

Q Okay. I'm trying to find the list. Do you, as you sit here, know how many credits you -- or keys you generated for each of those individuals?

A Not a specific number.

Q Okay. And then in addition to the individuals we've talked about, there were some credits sold that you were paid at the Lani Carney PayPal, correct?

A Correct.

Q So let's go through this exhibit because I know we talked about it before. This is Plaintiff's Exhibit 18.

So this is a discounthptunerscredits@mail.com e-mail

address; is that right?

A Yes.

Q And that's an e-mail account that you created?

A No. Well, excuse me. Say that -- repeat that.

Q Who created the discounthptunerscredits@mail.com e-mail address?

A I did. Sorry.

Q Who's Lani Carney?

A It was a PayPal account that was purchased through an online site.

Q And then -- so these would have been additional credits that had been sold; is that correct?

A Yeah. It was not very many.

Q But, like, some of these Australian dollars, I mean, there were some sales to people in Australian?

A Yeah. It was $25 for each credit, so if you start doing the math, there's a thousand dollars divided down by 25.

Q So this -- so were there any other transactions besides these that we have identified here?

A Besides these transactions and the ones that I gave you the list of names, no.

Q Okay. And so there's a reference on here to the -- Georgi Cannata; do you see that?

A Yes.

Q And who is that?

A Ken's daughter.

Q Okay. And so it looks like some shoes were sent to the daughter; is that right?

A Yes.

Q Okay. So did you order those shoes and send them to the daughter?

A Yes.

Q For what purpose?

A I don't recall why I had -- I had done it.

Q Was it like a gift? Was it --

A Yeah, it was...

Q Was it something Ken asked you to do?

A I don't believe he asked me to do it. I think I was just sending them to her cos I didn't need the money out of this account.

Q Now, Ken obviously knew about the shoes, correct?

A Yes.

Q Did he thank you for the shoes?

A I think he said he threw them away.

Q Why is that?

A Because he -- his daughter doesn't dance or anything, and...

Q Okay. I mean, they seem like pretty expensive shoes.

A 454 bucks. Yeah.

Q All right. And do you know who these -- Christopher

Guzman, All Car Tuning Americas, do you know these people, or they just reached out to you on the website?

A These people would have been through the MHH forum.

Q Okay. And then there's the payment to Christopher Breton-Jean?

A Yeah.

Q Was there a reason you used this account to make some of these payments as opposed to the Syked PayPal accounts?

A The payment to Christopher Breton-Jean was for the 2.24 patch that he had did.

Q Okay.

A Which was also posted on the MHH Auto.

Q So that -- when you say that was posted on the MHH Auto, the link for the download of that hacked version of the software was put on MHH Auto?

A Yes, of the 2.24.

Q Right. And that was posted on the MHH Auto by ECU Master, correct?

A Correct.

Q And you are ECU Master; is that correct?

A That is correct.

Q And I know you previously denied that in your original deposition, but you are correcting that testimony here today; isn't that right?

A I am, yes.

Q And the ECU Master was the user name that you used to post on the MHH forum?
A Yes.
Q ECU Master posted a hacked version of the 2.24 on the MHH forum?
A Yes.
Q And what other versions of hacked HP Tuners software were posted on MHH forum by you as ECU Master?
A 4.05.
Q Okay. Any others?
A No.
Q There wasn't a 3.5, I want to say?
A There was a 3.6 and 3.7 that somebody had posted, but I had nothing to do with that and that was not posted by ECU Master or me in any way, shape or form.
Q Okay. Did ECU Master post links for download on any other forum other than MHH Auto?
A I believe there were some others. I don't remember all of them.
Q Other forums?
A Yes.
Q What could they have been?
A There was a GM forum that it was posted on. I believe it was posted on HP Tuners' forum. I'm not sure off the top of my head of the other ones.

Q Okay. Would you be able to figure it out?
A I don't think so.
THE WITNESS: Could we go off the record for a moment?
MR. BLEIMAN: Sure.
THE WITNESS: Is there any way --
THE VIDEOGRAPHER: Do you want to go off the record?
MR. BLEIMAN: Yes, please.
THE VIDEOGRAPHER: Stand by. We're going off the record. The time is 1:42.
(Short recess taken.)
THE VIDEOGRAPHER: All right. We are back on the record. The time is 1:42.
Q (By Mr. Bleiman) Would you have records of what other forums the downloads may have been posted in?
A I wouldn't know.
MR. BLEIMAN: Okay. Let's take a 15-minute bathroom break.
THE VIDEOGRAPHER: All right. We're going off the record. This is the end of Media Unit No. 1 in the video deposition of Kevin Sykes-Bonnett. We're going off the record. The time is 1:43.

(Recess from 1:43 p.m. to 2:04 p.m.)

THE VIDEOGRAPHER: All right. We're going on the record. This is the beginning of Media Unit No. 2 in the video deposition of Kevin Sykes-Bonnet. We're now on the record. The time is 2:04.

EXAMINATION (Continuing)

BY MR. BLEIMAN:

Q Okay. I want to show you -- we got some better copies during the break, and this will be Exhibit 93.

(Exhibit No. 93 marked as confidential in separate transcript.)

Q (By Mr. Bleiman) So this was the -- some e-mails from the fhptuners@yahoo.com address. And these were the -- this is a color copy, a better copy, and it shows those non-HTP attachments that you talked about earlier; is that right?

A Yes.

Q Okay. And then Exhibit 94 is also just a color version of a prior e-mail, better printed copy, showing the January 9th, 2017, e-mail from Ken to you containing the HP Tuners appkey.xls and interface reprogramming attachments?

(Exhibit No. 94 marked for identification.)

A Yes.

Q (By Mr. Bleiman) Okay. That was 94. And then Plaintiff's 95.

(Exhibit No. 95 marked for identification.)

Q (By Mr. Bleiman) This was another copy of a prior exhibit, but a better printed copy showing the IP address from the -- why don't you tell me what it is.

A So this is for Exhibit 93 or 94, one of the two. This is the source code for that e-mail.

Q I think it's 94 because it shows the attachment names; is that right?

A Yes, yes. Down to the lower left side is appkey.xls for the file name. So this would be the source code contained up in the header of the e-mail, which showed the IP addresses on who it was received from.

Q So which IP address were you looking at?

A It's either going to be the 98.138.100.117 or the one that's right below it, the 98.138.88.232.

Q And did you -- when you found this e-mail and looked at this today, what -- did you look at what that IP address related to?

A I did look up the IP address, and it came from a

California -- California area.

Q Where was Ken located at the time that you were communicating with him on this e-mail?

A I believe at this time he was in California.

Q Okay. So it was before he went to Reno?

A Yes, I believe so.

Q And then here is another better copy. This is Plaintiff's 96.

(Exhibit No. 96 marked for identification.)

Q (By Mr. Bleiman) And this is also a source code relating to an e-mail, correct?

A Yes. This is for the January 10th e-mail, 2017, which is Exhibit 94. Source code -- I actually stand corrected. On Exhibit 95, I don't believe those are the two IP addresses. If you look about halfway down the page, it says X-originating-IP.

Q Yeah.

A And it's got that -- the IP address. So I believe this might be actually the originating IP on where the e-mail was sent from.

Q Okay. So the 98.138.91.235?

A Yes.

Q Okay. All right. I want to get back to the ECU Master thing for a minute here. So ECU Master was a acronym

user name for an account that you created, correct?

A Correct.

Q And -- and what -- was it your idea to release this software -- I know at this time there -- we read that text message earlier about the foreign sources with Ken. Was he involved in any discussions relating to the release of the HP Tuners cracked software?

A Yes.

Q Okay. How was Mr. Cannata involved with you in terms of discussing the release of cracked versions of HP Tuners software?

A During the summer of 2017 prior to the ECU Master, you know, showing up on the forums, the MHH forum, I was down in Las Vegas at an event with my family, and I got a phone call from Ken. Ken said he had an idea.

Q This was the summer of 2017?

A Yes.

Q Okay. What were you in Vegas -- what were you in Las Vegas for?

A A dance competition for my daughter.

Q Okay. And you recall getting a phone call from Ken while you were in Las Vegas at this dance competition?

A Yeah. So we were at the dance competition, and I had stepped outside. I can visualize exactly where I was at. And I stepped outside, and I was talking to John at that

time. Phone rings and it was Ken. Ken says he's got a -- got a great idea. And so I merged it with John, and said, Hey, John, you know, Ken's got a great idea, you know. At so at that point Ken proceeded to say we should release a cracked version of the software that was given to me by Christopher Breton-Jean that required no licenses.

And at that time, you know, I -- well, first off John said, you know, he wants no part of this and hung up the phone. From that point, Ken and I continued to discuss it, and I told him, you know, the 3.4 is a bad idea to release because it includes Dodge support, and that's our main focus in what we specialize in.

So we then began continuing to discuss what was the latest production version of HP Turners software that included only GM or General Motors side tuning. And he had told me it was 2.24. And so we came up with the concoction of, you know, patching 2.24 and releasing that out to the general public to bypass licensing.

Q And did -- okay. So did Ken have the -- strike that.

Where did you get the version 2.24 to then crack and release?

A Christopher Breton-Jean.

Q So he had the 2.24 version?

A Well, I provided him with the 2.24 production version,

executable, which then he patched, and then it was released to the public.

Q On the forum?

A Yes.

Q Under the ECU Master?

A Yes.

Q And so then you said that Christopher Breton-Jean patched the version or hacked the version. Do you know how he did that?

A At the time I didn't know.

Q What about now?

A Yes, I do.

Q How did he do that?

(Portion of deposition excerpted in separate transcript.)

Q (By Mr. Bleiman) All right. So the 2.24 was then patched. And then did any of the information that -- and we're back to regular.

MR. MANN: Certainly.

Q (By Mr. Bleiman) Was any of the information that Ken -- or did any of the information that Ken provided assist Mr. Breton-Jean in doing what he needed to do?

A No.

Q Okay. So then subsequent to that, did Mr. Breton-Jean

patch any other versions of HP Tuners software?

A Prior to doing the 2.24, yes, he did.

Q Okay. Which versions did he patch?

A I believe it was 3.2, 3.4, and then I think there was a 3.5 and/or a 3.6 that he had patched as well.

Q Did he provide you with any of these versions?

A Yes.

Q Do you still have these versions?

A No.

Q Did -- were these in those folders that we saw on the computer images earlier, any of the -- were they contained within any of those folders?

A Yes.

Q Which folder would they had been kept in on Exhibit 13 or 14? The HPT cracked folder?

A Yes.

Q Okay. And you don't currently have any versions of that, correct?

A I do not.

Q Now, do you know if Mr. Breton-Jean still possesses versions of that cracked software?

A I would be speculating, but I imagine yes.

Q Okay. Now, you didn't release 3.2, 3.4 or the other one that he provided to you?

A I did not.

Q All right. So back to the conversation with Ken that you had. So he actually planted the seed, I guess, in your head to say let's publicly release this because he felt as though if a public version was out there that people wouldn't have to go out and buy credits from HP Tuners?

A Yes.

Q And that's something he told you?

A Yes.

Q And he felt if HPT wasn't making money that they'd have to close down?

A Yes.

Q Is that something he said to you?

A So he told me that if we release this patch version of the software, it would get rid of HP Tuners and then we wouldn't have a competitor.

Q And this was the summer of 2017?

A Yes.

Q Now, subsequent to that, the ECU Master, you, did release a 4.05 hacked version of HP Tuners software, correct?

A Correct.

Q And that would have had GM in it, correct?

A It would have -- yeah, whatever support they had.

Q So what was your mindset in doing that at that time? Was it just to try and get back at HP Tuners because of this litigation?

A **It was.**

Q Did Mr. Breton-Jean patch the 4.05?

A **No.**

Q Who did that?

A **I did.**

Q And using the same methods that Mr. Breton -- or similar methods to what Mr. Breton-Jean used?

A **Similar, yes. It's --**

Q Why don't we mark this as highly confidential, but we can show it to my --

A **Yeah.**

Q -- principals.

(Portion of deposition excerpted in separate transcript.)

Q (By Mr. Bleiman) So describe for me what -- you know, I know we talked -- well, strike that.

I know we talked at the first deposition in terms of this Mr. Christopher Breton-Jean. And obviously we're getting some additional detail here today. Tell me what that relationship was and what -- I guess let's start with what were you -- what was he doing for Syked ECU Tuning?

A **So just to, I guess, kind of, you know, recap on the relationship. It started by he had a Dodge Neon SRT-4**

that he had put an aftermarket cruise control in. He needed me to do a custom operating system that allowed activation of the cruise control because this car never came with it. I told him it was going to cost him X dollar amount. He said he didn't have the money. You know, Is there anything -- I'm willing to trade. I said sure.

I said, Are you good with programming? Are you good with reverse engineering? He said yes. I said, Well if you hack my program, my software and tell me where my bugs are and my loopholes are so I can patch it to make it more secure, then I'll go ahead and do this custom tuner, custom operating system for you. That's where the relationship started.

You know, we talked quite a bit, you know, over the -- you know, as time kind of went on, and he eventually got involved in developing server code for us. And that was his main relationship, I guess, with Syked ECU Tuning -- not me as a personal individual -- would be server code.

Q All right.

A He ended up developing -- I shouldn't say developing. He ended up taking our Version 1 server code that was written by Jason Sax (phonetic) and taking it, I guess you could say, to the next level and making a Version 2

server for us, in which he -- you know, he was paid through, you know, different means. You know, I bought him a CPU. I bought him a hard drive. I paid him some cash, and things like that.

In doing so, him and I started reverse engineering other -- other programs and just kind of kept going from there. So it was a personal and a business relationship. It was --

Q Right. So the -- but in terms of what he was doing with respect to HP Tuners was mainly reverse engineering or hacking HP Tuners' software?

A Yeah. And the idea was not to benefit Syked ECU Tuning. It was more of a challenge than anything. Let's -- let's see what we can learn. Let's see what we can come up with.

Q You did transmit some of the HP Tuners source code to Mr. Breton-Jean, though, at different times?

A I don't recall doing that.

Q Okay. Well, let's -- I mean, we'll mark this as highly confidential just because there's some lines here. Exhibit 97 will be highly confidential.

(Exhibit No. 97 marked as confidential in separate transcript.)

Q (By Mr. Bleiman) But -- so this is more Facebook

communications between you and Mr. Breton-Jean?

A Yes.

Q And here's some source -- some HP Tuners source code that you did send to him.

A It appears so, yes.

Q And what would have been the purpose of sending this to him?

A I honestly have no clue because prior to this I said I couldn't send him anything. So I don't know why I would have sent this to him.

Q All right. But you do recognize this to be HP Tuners' source code?

A Yeah. This appears to be an NGC3 seed key algorithm. The NGC3 underscore scram equals new ent square bracket 8 closed square bracket, you know, with a bunch of, you know, O, X and numbers and letters stuff. You know, there's -- there's bits and pieces of this that is, you know, seed key algorithm mandated by the manufacturer, but the way it's written would be HP Tuners' format, yes.

Q Okay. All right.

A I'm not sure why I would have sent that to him.

Q Now, clearly the relationship between you and Mr. Breton-Jean deteriorated; is that correct?

A Correct.

Q And you've seen the Facebook messages where he's, you

know, claimed to have pictures and videos and things like that, correct?

A Correct.

Q And obviously we looked at some of those pictures earlier today, correct?

A Correct.

Q And you -- I know we talked the first time at the first deposition, you know, about that Gregory Gilvach, correct?

A Yes.

Q And I know you said at the first deposition basically you didn't, you know, have an opinion as to who Gilvach may be or, you know, whether Mr. Breton-Jean was Gilvach. Based upon everything you've seen and going back through your Facebook Messenger messages, do you have a belief today as to who may be behind the Gregory Gilvach anonymous person?

A Based on going back through, reviewing everything with the Facebook messages between Christopher Breton-Jean and I, looking through the screenshots that Gregory Vilvach had provided to you, Andrew Bleiman, I believe it's Christopher Breton-Jean.

Q Or certainly someone working with him that he gave stuff to?

A Very possible, but I believe it was Chris directly.

Q Has he ever told you that he is or is not Gregory Gilvach?

A He has not, no.

Q And when you were communicating with Mr. Breton-Jean, I mean, maybe on TeamViewer, he would have been sharing the screen, like he would have had an ability to see what was on your screen at that time and take a picture of it or a video on his end?

A He would have been the only one besides John that I pretty much allowed onto my computer.

Q Okay. And you would frequently TeamView with Mr. Breton-Jean based upon these Facebook messages?

A Yeah.

Q Or have video calls or things like that?

A Absolutely.

Q And did he accuse you of being affiliated to the person in New York that apparently was selling some interfaces?

A Yes.

Q And do you have any -- or have you had any interaction with the person in New York that was selling interfaces?

A He had sent an e-mail after we had initially released the eliminator cable wanting to purchase one. I had heard his name through another gentleman that was involved in interface with another case with HP and, you know, so I immediately screenshoted that and sent it over to you. I

knew who he was, but I never had any -- I never replied back to the e-mail, nor have I had any discussions or communications with him.

Q I know we talked before about selling some of the app keys and credits, things like that, and you did post the one interface for sale. Were there any interfaces sold by you to any third parties that had been cloned or manipulated or loaded with credits?

A No.

Q All right. Let's quickly look at Exhibit 36 that was previously marked. And this was one of your posts that we covered in the first deposition. But this screenshot of the "PCM Tools HP Tuners Confidential," was this something that Ken provided you with?

A He provided me with a screenshot via text message.

Q Okay.

A Which I believe would have been in the November of '17 to November of '18 text messages that I produced to you guys, but I never did have the actual program itself.

Q Okay.

MR. BLEIMAN: Let me do this. This is 98.

(Exhibit No. 98 marked for identification.)

Q (By Mr. Bleiman) So 98 is more Facebook Messenger

communication between you and Mr. Breton-Jean?
A Yes.
Q And then obviously you'd sent the PayPal payment to him from that Lani Carney PayPal address?
A Yes.
Q And then here on March 24, 2018, he says, If I can prove you're Larni, all will be proved same. He misspelled a bunch of words, but he had obviously known you were behind the Lani Carney PayPal, correct?
A The entire time.
Q Right. And so this is that reference to that; is that your understanding?
A Yes.
Q Was he also generating keys for third parties, Christopher Breton-Jean?
A Unless he figured out a way to do it, not to my knowledge.
Q Okay. And what about distributing like -- there was a bunch of references in the -- well, I'll just mark this.

(Exhibit No. 99 marked for identification.)

Q (By Mr. Bleiman) So here there's -- this is Plaintiff's 99. This is maybe part of when he got frustrated regarding a guy in New York that someone else is offering unlimited HP Tuners, and he says, Who the fuck have you

given my hacked version.

A Yes.

Q So was he -- did he to our knowledge provide the hacked version of the software to anybody?

A Not to my knowledge. He tried selling the cable -- or well, the cable that I had provided to him that was just a normal cable, and I had loaded it up with credits, he had -- he tried selling that to somebody, but I don't know about him trying to do anything with the -- with the hacked version of the software.

Q Okay. Like in terms of selling it, you don't know?

A I don't know.

Q Okay. All right. I'm going mark this as Plaintiff's 100.

(Exhibit No. 100 marked for identification.)

Q (By Mr. Bleiman) So Plaintiff's 100 were answers to interrogatories that you provided in this case.

A Yes.

Q And so the first answer here relates to this VCM Editor 3.0.83 in receipt of that VCM Editor version, do you see that, an admin version of VCM Editor 3.0.83?

A Yes.

Q And the answer is that you were not provided with one?

A Correct.

Q Okay. I printed -- in connection with the document production, there were some Excel files, which I don't think we need to mark all these pages, but I'll show you there's like a log from VCM Editor 3.4.3. There's also a log on another one that I didn't print out that you produced of the 3.0.83.

A Correct.

(Portion of deposition excerpted in separate transcript.)

THE WITNESS: Okay. I just didn't know if there was --

Q (By Mr. Bleiman) Understood.

A -- a misunderstanding.

Q No, no. That -- I will still keep that. But I guess -- so from what I can understand, the admin version of the software that Ken had provided you with allowed you to run these Excel files or create this Excel file using -- well, strike that.

The admin version of the software that you had possessed allowed you to create these Excel logs of these vehicles?

A Yes.

Q Okay. You didn't need the admin version of 3.4.3 to do this; you were able to use the admin version that Ken had

given you to run these reports?

A Correct.

Q Without an admin version of the software, you wouldn't have been able to run these logs, correct?

A In that specific format, correct.

Q Right. Right. Okay. I realize you haven't seen the expert's report, but I want to ask you a couple of questions. The -- would you agree that the Syked source code interfaced with the HPT hardware?

A Partially.

Q Okay. And would you agree that the --

(Portion of deposition excerpted in separate transcript.)

Q (By Mr. Bleiman) Okay. Let's take a look here at what has been marked as Plaintiff's 68. And these are the text messages that we had gotten produced by you between -- for the period November 19, 2017 to November 17, 2018. Do you see these?

A Yes.

Q And these were produced to us in the PDF format. Do you recognize them?

A Yes.

Q And to be clear, the blue messages would be your messages to Ken and the -- on the right, and the messages in the

gray boxes on the left would have been the messages from Ken to you?

A Correct.

Q All right. Now -- and then looking at the text messages that you just gave us as well between, you know, late 2015 and March of 2017, Ken routinely was communicating with you about the business of Syked ECU Tuning, correct?

A Correct.

Q And he was frequently and routinely participating in meetings relating to the company; is that correct?

A Correct.

Q And you'd had a number of phone conferences between you, him and John, correct?

A Correct.

Q And there was -- were there set meeting times every week that you had, or I know I saw some texts that you were trying to maybe get a more scheduled time every week on the calendar so that everybody would get on the phone at the same time?

A Yeah. There was a lot of -- I mean, we -- we tried to kind of structure certain meetings just to kind of see where everybody's at on the development of what each person was responsible for doing, but I don't know that we ever had anything consistent.

Q And in many of these text messages, you were

communicating to Ken, and Ken was communicating to you, you know, We're going to make a lot of money. This is going to be great. We're going to have a great year. And you were trying to work together on the development of the business of Syked; is that right?

A Correct.

Q And what was the purpose then of having Bobbie as the owner of the company when Ken was the one who was doing everything involved with the business?

A Ken would have been on a noncompete. He wanted to make sure that, you know, what he was investing was secure. And so Bobbie essentially became a shareholder of the company.

Q So she was a front person, essentially?

A Basically.

Q And Ken understood he had the noncompete, but was directly trying to manufacture this to avoid the noncompete?

A I believe so.

Q And he and you had communicated about the fact that he had a noncompete and he had to do this through Bobbie to try and avoid implicating the noncompete?

A Yes.

Q And I've seen text messages and, you know, wink emojis in terms of, you know, My noncompete's in place. Because

despite the fact that there was the noncompete, he was actively, routinely and, really on a daily basis, working on the development of the Syked business; is that correct?

A Partially.

Q What's not correct about what I said?

A Well, so he worked on the development of the hardware and of the firmware, but for the most part, I mean, when it came to anything to do with, you know, the actual software itself or things along those lines, I mean, he never really had any involvement in it. He might have had suggestions, but he -- you know, he wasn't doing any marketing. He wasn't, you know, reaching out to all the contacts that he claimed that he had, you know, different things like that. I mean, at least --

Q Well, he was communicating with some people. For example, Kyle Kelly; who's that?

A Kai Kelly. So I think he's a guy from Street Outlaws, and he's said for several years, you know, I'm friends with Kai Kelly; I'm friends with Kai Kelly. You know, I'm going to get in contact with him.

But to my knowledge, he never has.

Q And what about Dave Casper?

A So Dave Casper is my friend.

Q Okay.

A And Ken's never had his number or had any contact with Dave Casper. That's my contact.

Q So in terms of, though, you know, maybe Ken being on the more the hardware/firmware side and you and John being more on the software side, everything was intending to work together to try and go to market with a competitive product to HP Tuners?

A Yes.

Q And Ken was assisting in that process really from when he first shared information to you in April of 2016 to the present?

A Correct.

Q All right. So let's take a look at some of these text messages. Well, let me ask, before we get into the text messages. In the text messages, there's a number of communications that, I mean, he was having with you and that he was also involved in some communications with Chris or Keith of HP Tuners where there was -- and I mean, even some of your communications to him about posts that you had made about HP Tuners or about Ken, and it seems like they were designed to try and like make it appear as though you guys weren't working together.

Was that something that was done on purpose?

A I don't recall or believe that I was intentionally doing it. You know, as you asked me in the first deposition

about some of the comments I made about, you know, him being an asshole -- excuse my language -- things like that, I still believe that's true today. I wasn't lying about any of that.

Q What about the fact that Ken was, like, preparing communications to send to Chris, like, that he didn't know anything about any of this and why are you bringing me into this --

A That -- that was Ken's whole front. You know, just trying to -- trying to paint a picture that he wasn't involved.

Q Right.

A So I guess from that aspect that would be correct. As far as my posts and comments, I wasn't deliberately trying to cover up that he was involved.

Q Understood. Okay. Let's look on Page -- looks like Page 13.

A (Witness complies.) Okay.

Q This looks to be approximately December 23rd of 2017.

A Yeah, it appears to be.

Q Yeah, December 23rd, 2017. And you asked Ken, Are there other spots for serial and PWM? Seems fair, but I don't know. Do you see that?

A Yes.

Q Okay. What -- are you talking about the board here?

A Yes.
Q And what -- tell me what the board would be.
A It would have been one of the -- one of the first, you know, I guess, alpha versions of the eliminator cable.
Q Okay. And so Ken writes, I think -- "thing" -- he said, I thing is missing on topside except connectors for key pad and AV conversion. Nothing is missing.

You wrote, Okay, just see -- no problem. Just see blank spots where there are pads. Do you see that?
A Yes.
Q So then he writes, Stop worrying about it and let me do my job, please. Do you see that?
A Yes.
Q So what job was he doing?
A Developing the eliminator cable.
Q And I know in connection with this case, you know, there's been -- there was the -- the eliminator cable being Ken's product, private-labeled for you and that he owns it and whatnot.

When -- when this first started, were you paying Ken anything? Have you ever paid Ken anything?
A No, I haven't. When this first started, the eliminator cable was supposed to be intellectual property of Syked ECU Tunings, and he was developing a four site DCU tuning. Throughout this process, this litigation

started. He has -- because I had nothing in writing with him -- I had, you know, with Bobbie -- he has changed his story, and now it's his intellectual property and he's licensing it to us.

Q But Syked ECU Tuning hasn't paid him for any of this?

A No.

Q When the investment in Syked ECU Tuning was made, did Ken pay the money or did Bobbie?

A I believe Bobbie paid it.

Q Do you know how much she paid?

A The agreed amount was a total of 50,000.

Q And did she put in 50?

A At different points in time I believe that she did finally make that 50 mark.

Q All right. Is Syked ECU Tuning still alive?

A Syked ECU Tuning, all the documentation has been filed for diss- -- or signed for dissolution of the company. I believe that we're waiting on one final thing to go through. I'd have to ask John on it, in regards to Washington state's B&O taxes being able to file and get everything finished up with the state, and then we're able to file the dissolution paperwork. I think Phil was involved in an e-mail on that. I don't recall.

Q Do you have a new entity?

A We do.

Q What is that entity?
A Site Performance Engineering is the new entity. John and I are the only two owners of the company. Bobbie and Ken are not part of that, and then we plan on doing dba's underneath that as well, but we haven't got all that --
Q Is it LLC or corporation?
A I believe it's LLC.
Q Actually, let's go back here. There's a -- on December 8th -- it's on Page -- well, let's start on Page 4, actually.

You wrote to Ken on December 2nd: 2:30 meeting today with attorney. Ken writes, Not me. At doctor with sick kids. Do you see that?
A Yes.
Q Was he participating in the meetings with the attorney?
A I think he might have been on one or two calls, maybe a few more than that early on. I don't recall exactly. I mean, it certainly seems that way. I don't remember the specifics.
Q All right. Do you remember which calls he was on?
A I don't.
Q And was the attorney communicating and providing documents to Ken directly?
A No.
Q So then Ken writes, Whatever. This needs to go away.

Nothing of theirs has been stolen, and now we want all court costs and punitive damages and public apology. Do you see that?

A Yes.

Q Then if you look at December 8, which is Page 5.

A Yes.

Q There's a link to the -- Just got full cracked HP Tuners 3.5 beta version. You attached a screenshot there?

A Yeah, it's a screenshot.

Q All right. And this alo -- aloneraja is the user name?

A Yes.

Q Do you know who that is?

A I have no clue.

Q And that's not you?

A No.

Q Do you know if that's Breton-Jean?

A I don't.

Q Okay. So then on December -- well, I'll just go -- on Page 18 -- or sorry, start on Page 16.

A (Witness complies.)

Q So you wrote Wednesday, December 27th, 2017, 11:42 a.m.: CYM. That's check your mail, correct?

A Correct.

Q And you wrote, Attorney e-mailed you. See that?

A Yes.

Q So why -- why was the attorney e-mailing him?
A So John Whitaker had e-mailed Ken wanting to ask him some questions. I don't recall exactly what it was. And from that point I think -- there was something that we were trying to get information from Ken about. And so I had the attorney e-mail him because on the phone conversation Ken told me, you know, Have your attorney e-mail me and I'll -- I'll reply back. I don't remember exactly what it was though.
Q So then on Page 18 there's an image of a screenshot of Ken's phone or computer or something. And then it says, What is going on here and why am I being brought into this? I called Kevin and none of this makes sense.
And then Chris apparently wrote to Ken, You are being brought into this by Sykes. Only he or his lawyer can tell you why. And then Ken writes, Getting ready for my response. I'll run it past you. Do you see that?
A Yeah.
Q So this was part of that scheming I was telling you about, like he was pretending he didn't know anything about any of this?
A Yep.
Q And then he provides his response here on Page 19.
A Yes.
Q Okay. The top message there, I talked to Kevin in

length. That was the message he prepared to send back to Chris?

A Yep.

Q All right. Take a look at Page 22.

A (Witness complies.)

Q Ken writes to you, No kidding. Let's start making push to get the name out there, and those problems go away with handheld and our price point. Do you see that?

A Yes.

Q So what's he talking about here?

A Yeah. Pushing Syked ECU Tuning's name out there and selling handheld, which we had through Hypertech before we got involved with Ken because at that point we didn't have an eliminator cable that we could sell to the public.

Q And he's saying "our" price point. He's like including himself within the Syked ECU Tuning umbrella, correct?

A Correct.

Q And earlier he says, No, you don't. You need to start posting issues about -- with HPT and cost increases, and he was encouraging you to bad mouth HP Tuners, right?

A Yes.

Q So then on Page 23 there's another example at the bottom here of a message he was going to send to Chris, again with the -- you know, under the guise that he was trying

to work this all out, I guess.

A It appears so.

Q All right. Let's take a look at Page 28.

A (Witness complies.)

Q Well, also at that last text message that we talked about, particularly where he was going to write to Chris, he never communicated to you and you're not aware that Ken ever communicated to HP Tuners that he was involved with Syked ECU Tuning, correct?

A No.

Q He was intentionally trying to avoid disclosing that?

A I believe so.

Q And you and Ken had had conversations about making sure that it remained private that he was involved with Syked ECU Tuning, particularly during the period of his noncompete; is that right?

A Correct.

Q In fact, the two of you didn't even become Facebook friends because he didn't want any attention to come of the relation that the two of you had; is that true?

A True.

Q Take a look at Page 28.

A (Witness complies.)

Q Ken writes, No, I want one more day to play with them. I don't like this driver error and that resides in the boot

code. Otherwise they work. I'm going to create new PC drivers to see if anything changes. Did you guys get the code fixed on your end? It's still buggy as hell. None of these comm issues are present with VCM Suite; do you see?

A Yes.

Q So he's saying here basically the cable works with the VCM software, but it's not working with the Syked software; is that right?

A Um, I'm not -- yes and no. If I recall correctly on this, this is one of the first three cables that he had manufactured, eliminator cables. I believe he was switching back and forth between the MPVI firmware versus the firmware that we -- or that he wrote for the eliminator, or allegedly wrote for the eliminator, and so he could test the hardware, because we were having a lot of issues in the Syked software doing the communication stuff.

Q So it was your understanding that he still retained copies, or a copy, of the HP Tuners MPVI1 firmware source code in order to be testing these things?

A I don't know if it was the source code or if it was a binary file. I'm not sure on that end.

Q Some intellectual property of HP Tuners was in his possession to be able to do this?

A Yeah. I -- yeah, one -- one or the other.
Q Take a look on Page 49.
A (Witness complies.)
Q Or actually 48 too.
A (Witness complies.) I'm sorry 42?
Q 48 and then 49.
A 48 and 49?
Q Yeah.
A Okay.
Q So you wrote -- or Ken wrote to you, You done being crazy and stressed out? Do you see that?
A Yeah.
Q And then you wrote, You will get a link to a video deposition I'm doing to protect myself. Do you see that?
A Yeah.
Q What are you talking about there?
A It was basically, I mean, you know, just telling -- telling our story, telling how everything happened.
Q In terms of you working with Ken and him providing you with the information and all of that, how it happened?
A Correct.
Q And then Ken writes on Page 49, My name better no be in it. Do you see that?
A Yep.
Q And you wrote, Or what, you have me killed? Do you see

that?
A Yep.
Q And then he writes, Take the call, dude. And you wrote no, right?
A Correct.
Q And then who's -- it says, Nate who? Do you know what that is?
A I don't.
Q And then Ken writes, So you know the story. Are you backing me publicly? I promise I won't drag you into court. Wrap it up. Do you see that?
A Yeah.
Q What is he talking about there?
A I mean, I'm guessing just not mentioning his name and, you know, how everything developed.
Q Okay. And then you wrote, I got your back and would never say anything. Do you see that?
A Yeah.
Q And he says, Me too. Correct?
A Yeah.
Q So basically this was, you know, Look, we're going to -- we're going to -- we've got our stories straight and we're not going to talk to anybody about it. We'll protect each other?
A Yeah.

Q Page 58. Do you see that?
A Yes.
Q All right. So this is regarding the payment that Ken made from an HP Tuners Citibank bank account to you from the 2015 time period?
A Correct.
Q And so he's basically telling you, Here's the information; you know, I don't have the cleared checks, but go and -- and, you know, you can ask HP Tuners for this stuff.
A Yep.
Q So then Page 67. Here you ask for Keith's phone number?
A Yes.
Q All right. And Page 68 there's a screenshot of a text between you and Christopher Breton-Jean?
A Yes.
Q And then you wrote down, on Wednesday, March 21st, 2018, Three more people -- three more people got letters today. Do you see that?
A Yes.
Q Ken writes, Dumb, dumb, dumb. Spending lots of money on shit they can't prove losses on. Just change the firmware already. Do you see that?
A Yeah.
Q And then you wrote, I think you're wrong if they can

prove damages. Correct?

A Yes.

Q And he writes, Nope, have to prove what the money was for. Do you see that?

A Yes.

Q So then take a look at Page 70, and this is all when Christopher Breton-Jean was apparently threatening to release some of the information that he had on you; is that right?

A Correct.

Q And you were scared about this; is that true?

A Yes.

Q So now here you're having some more conversations with Ken, Sunday March 25th. And at 8:38 a.m., you wrote, Canada is going off the deep ends.

A Yes.

Q And you were -- before that you even wrote, I'm scared, to be honest; do you see that?

A Yeah.

Q And then Ken writes, I'm not bailing out on anything. I'll sink that company. Do you see that?

A I do.

Q And when he's saying he's not bailing on anything, he means he's not bailing out on Syked ECU Tuning and his efforts to help you, correct?

A Correct.
Q And I'll sink that company is a reference to HP Tuners, right?
A Yes.
Q And he was interested in hurting HP Tuners and had -- like you talked about earlier, had even talked about planted -- or told you to release the software, correct?
A Correct.
Q So then he writes, Then throw Canada under the bus and release all software. He's even saying it here, right?
A Yeah.
Q And then he writes, I can do a special version of firmware that will sink them for sure. Get that guy under control or Keith and Chris are in for the fight of their life. The entire industry will hate them as this affects everybody. Arrogant assholes. Correct?
A Correct.
Q And you write, I can't get him under control; do you see that?
A Yes.
Q So now here he talks about a special version of firmware that will sink them for sure. What was he referring to there, to your knowledge?
A I'm not hundred percent. Could either be the firmware doesn't allow the cables to be killed or shut off, or he

could have been talking about a firmware that doesn't have a seed key to allow pass through, but I'm just going off assumption on this one.

Q Would there be any way for him to do a special version of firmware if he didn't have the firm -- the MPVI firmware already in his possession?

A Unless he extracted it from the cable and disassembled it, I don't think so.

Q And then on the next page, on Page 71 at 9:22, you wrote, He has a video of my computer getting him the key and says he gave it to HPT, and everything else him and I did. Do you see that?

A Yes.

Q All right. So that refers to these pictures and images that we talked about earlier --

A Yes.

Q -- that Mr. Breton-Jean had?

A Yes.

Q So then on Page 72, Ken writes, I didn't hack software or firmware but could make it all public. Be very careful, Canada, on HPT. Do you see that?

A Yes.

Q Now, did you have conversations with Ken that he still possessed the software and firmware of HP Tuners that he could make public?

A I provided him with the 3.4 version of the cracked software at one point that was given to me by Chris from Canada, so he might be referring to that.

Q Okay. And do you -- well, he had also possessed the materials that he had previously provided to you?

A Yes. I never -- I had a couple classes of the firmware source code, but I never had all of the firmware source code for the MPVI.

Q Okay.

A I never had the design files for it either.

Q All right. So then at 9:59 he writes -- Ken writes, My main goal is to get these final boards qualified and produced. Don't give a shit about HPT and Canada. My noncompete is up next month and I know everybody in the industry. I will personally call them as tell them come at me bro, #industry changer. Do you see that?

A Yes.

Q So here he's referencing his noncompete with HP Tuners?

A Yes.

Q And his intention to do things when it expired even though he was already helping you at this point; is that right?

A Yes.

Q So then on Page 78 there's an image at the top. What is -- what is that image of?

(Portion of deposition excerpted in separate transcript.)

Q (By Mr. Bleiman) Oh, I'm sorry. We need to go back to Page 67 real fast.

(Portion of deposition excerpted in separate transcript.)

MR. BLEIMAN: We have to change the tape, so...

THE VIDEOGRAPHER: We're going off the record. The time is 3:21 p.m.

(Recess from 3:21 p.m. to 3:39 p.m.)

THE VIDEOGRAPHER: All right. We're back on the record. The time is 3:39.

EXAMINATION (Continuing)

BY MR. BLEIMAN:

Q Okay. I'm trying to go through these e-mails here -- or texts; excuse me. Let's start on Page 74.

A (Witness complies.)

Q On March 29th you wrote, We are on for the 20th, or did the wife plan something? Either way is fine.

That referred to your visit to Reno; is that

correct?

A Correct.

Q And what was the significance of going on April 20th?

A April 20th was the end of his 18-month noncompete, so we had a weekend planned. Gonna celebrate that.

Q All right. And take a look at Page 75, the next page.

A Okay.

Q Ken writes, I did find a local company to do art work for the label. Do you see that?

A Yes.

Q And that would be a label for the Syked eliminator cable box?

A Yes.

Q And that would have been like the design logo that goes on there, right?

A Correct.

Q So Ken was charged with, like, finding the shop to do that?

A He -- yeah. It was a joke. We didn't use it.

Q Okay. On Page 77 you wrote, When I'm flashing an EC, you do need -- you do -- you limit the box speed on the illuminator.

And Ken wrote, Oh, yeah, that makes sense. Of course not. Same code as MPVI.

What does that mean?

A On the -- limiting the clock speed on the illuminator, eliminator -- autocorrect -- we were have issues with overflowing the buffer inside the eliminator cable. We were pushing data out the USB bus too fast, and so I was trying to figure out if he's limiting the amount of data we can push at a particular time. And he says, you know, that he -- that he doesn't; it's the same -- same code as the MPVI. So it indicates that he's using the same -- same clock speed code.

Q Okay. Let's take a look at page -- well, the same clock speed code from the MPVI is in the eliminator?

A I mean, I can only assume. I've never seen it.

Q Right. But that's what he's saying?

A It appears that way, yes.

Q Yeah. Okay. So then take a look at Page 88.

A (Witness complies.)

Q You wrote, Call me when you're ready. You wrote, Call house -- he wrote, Call house. And then you wrote, Both editor and scanner build. Look at your screen. Do you see that?

A Yes.

Q What are you -- what were you doing there?

A Ken knows nothing about Visual Studio or Windows code. I had installed a -- I had logged into his machine, installed Visual Studio for him, and then the editor and

scanner code, I had put the projects in the Visual Studio and got it to compile for him.

Q So which code would this have been?

A HP Tuners.

Q Okay. So at this point in time, you had the code, and then you were giving it to Ken?

A No. It was on Ken's computer.

Q Okay. So it was already on Ken's computer, but then in the Visual Studio?

A It was already on his computer in the folders, but he didn't have Visual Studio or know how to set up the project to compile it into an executable program. So I set all that up for him.

Q All right. So when we're talking here about editor and scanner, we're talking about VCM Editor code and VCM Scanner code that was on Ken's computer?

A Correct.

Q Back in April of 2018?

A Correct.

Q All right. And so were you doing a TeamViewer session with him?

A Yes.

Q And so you could actually see that this code was on his device?

A Yes.

Q And then he jokes, or writes, I just sent a screenshot to Keith.
A Yeah. I believe it was a joke.
Q Yeah. Well, he writes later on, Of course I didn't. Do you see that?
A Yeah.
Q And then he writes, And actually I would go dark and say my name is money cut. Do you see that?
A I think he meant to say honey cut.
Q All right. Let's look at Page 90.
A (Witness complies.)
Q So at the top of the page, he writes, If you take the -- he being Ken -- if you take the MPVI and unplug it from ODBII, you get an error message. If you query vehicle for voltage, that's different request to see if it's alive. It will not report voltage if there is no operating system. Do you see that?
A Yes.
Q So what is he doing here?
A I think he's saying that -- you know, that -- well, I mean exactly what it says: If you take the MPVI out and unplug it from the ODBII, you'll get an error message. If you query the vehicle for voltage, that's a different request to see if it's alive.
So I think he's referring to gathering information

from -- from the engine controller. I don't -- I don't remember exactly.

Q So he was using an MPVI to facilitate the development of the eliminator cable?

A Yeah. Or he was doing it to testing -- he was testing it on the M- -- you know, the MPVI with HP Tuners' software because we were running into some sort of issue with ours. I'm not a hundred percent sure.

Q What -- to our knowledge was the MPVI used to test the Syked software by Ken?

A Was the MP- -- I'm just going to repeat the question.

Q Yeah.

A Was the MPVI used --

Q To test the Syked --

A -- to test the Syked program? The full MPVI cable, I -- I don't believe so.

Q Okay. What about, like, an admin version of the MPVI?

A Well, I mean, the admin version -- the only difference between a regular version and an admin version is literally only the serial number. Everything else is identical, to my understanding.

Q I thought there were some unlock features of the admin that made it --

A That would be the admin version of the software has additional features in it, but the admin version of the

MPVI, to my knowledge -- and you'd have to ask your client -- the only difference between the two would be the serial number, to my understanding.

Q Did Ken develop a cable that he could use with both HP Tuners software and the Syked ECU Tuning software?

A He had claimed to me that he had.

Q Okay. So he's -- so do you know if that was an MPVI that he had modified in order to work with both HP Tuners software and Syked software?

A I believe it was an actual eliminator cable that he had modified to work with both.

Q Okay. All right. Then on Page 91, you wrote, Five more days and you are a free man. Woo-hoo. Correct?

A Yep.

Q And then he wrote, I have been a free man the entire time. Bobbie owns the company, and I still own a house in California which does not honor noncompetes, winking emoji. Do you see that?

A Yes.

Q So the fact that Bobbie was the owner, again, was just like a front to have him circumvent the noncompete?

A Yes.

Q On Page 94, there's some conversation here: Does it read -- reads, Did it write. LOL. Keith truly is the dumbest asshole I've ever known.

Ken writes, Credits cost the company nothing. Do you see that?

A Yes.

Q And then you wrote, Yeah, pretty funny. It just looks bad in court.

He responds, HPT is now providing you your full start-up capital. You wrote, Yep.

What are you guys talking about here?

A I remember this conversation, but I don't remember why we were having this. The did it right thing, I mean, that was us testing the Syked software with the eliminator cable on his bench with his computer. I remember that because on the previous page I'm telling him to -- you know, to update, transfer in a new EXE, just fix something else. So that's refer -- you know, that's talking about him fixing things in our software because we were having issues with that, but I don't remember how we got on track of the LOL, Keith truly is the dumbest part you read.

Q But what about this start-up capital; what does that refer to? Is that selling the credits?

A I don't want to misspeak on it.

Q Well, Ken --

A It was something to -- there was some reason that we were discussing -- I don't know if it had to do with the

countersuit or if it was cos, you know, he was like, Well, they're going to lose in court and we're going to get, you know, our attorney fees. I don't remember what it is, but it had something to do with HP Tuners paying us as opposed to...

Q Right. But Keith -- or excuse me. Strike that.

Ken knew that you were selling credits; is that correct?

A Correct.

Q Okay. How did he know that you were selling credits?

A Because he told me to.

Q When did he tell you to sell credits?

A I think it was in a text message somewhere that he had suggested it, but it goes back further than that. I was having a little bit of financial problems. And he said, you know, You've got the key generator. Go sell some credits and make some money for your family. And so I, you know, sold some to some friends.

Q So the comments that he was -- you know, that it was supposed to be for your personal use that he made in connection with some of these declarations would have been inconsistent with what he was telling you separately, which was you can go and use it to make some money to support your family?

A The using it to make some money to support my family came

at a later date.

Q Right.

A Initially, it was, Here, generate yourself some credits and keep it quiet, kind of deal.

Q Why did he give you the key generator?

A Because I was complaining about the 42 credits and I wanted some credits. In regards to that, I mean, that's the truth on that end of it.

Q So he thought that -- well, he also wanted to stick it to HP Tuners; isn't that right?

A Yeah.

Q Did he ever tell you that? I mean, we've seen text messages.

A I was going to say, I think we've -- yeah, we've seen that he's mentioned several times about disliking them and maybe other words.

Q And he also told you that verbally, just kind of his dislike and wanting to punish them?

A He's -- he's voiced that several times.

Q Okay. All right. So then on Page 100, you went down to Reno; is that correct?

A Yes.

Q Okay. And he picked you up at the airport?

A Yep.

Q And then on Page 102, you thanked him at 1:24 for having

you down for the weekend; do you see that?

A Yep.

Q So when it refers to "illuminator," that is just spell-correct on eliminator?

A Correct.

Q All right. And that happens frequently throughout these texts.

A Yeah, iPhones are typical for autocorrecting.

Q So then let's look at Page 109. You wrote on May 6th, Did you get a chance to do those three HPT cables? Two are shipped to you, the one I shipped you months ago and the two I brought down. Do you see that?

A Correct.

Q So what -- how many cables were there? Five?

A It --

Q Or were there three?

A Yeah, it's hard -- I think there was only three. I don't think there was five. I don't -- I don't recall exactly though.

Q So what was he doing to those cables?

A They were bricked, and so he was supposed to unbrick them.

Q So was he -- he wasn't cloning them, was he?

A No. They -- they had been disabled.

Q And how was he doing to unbrick them?

A I don't know. He never told me how he was doing it.
Q Okay. But he had some HPT proprietary information in order to bring those inter -- HP Tuners' interfaces back to life?
A I would be assuming if I said yes.
Q Okay. But he writes, You were supposed to give me some serial numbers. Do you see that?
A Yeah.
Q And you told him to make them all that one number ending in 1075?
A I don't even remember where that number came from.
Q Do you know white house -- White Horse Tuning?
A I do.
Q Do you know if that's the serial number for their interface?
A I don't recall. I mean, it might be.
Q In your note, I believe that that White Horse Tuning had gotten an interface from the guy in New York.
A Correct.
Q So were you trying to match the serial number to be the same serial number as the one that McKnight had gotten from New York?
A If this matches it, then yes, I think I would have been trying to do that.
Q Because you were aware that McKnight had bought a

interface from New York, correct?

A Correct.

Q So Ken had some HP Tuners intellectual property that would allow him to modify or somehow manipulate the interface. And do you know if he was successful in doing this?

A I don't think I ever got these cables. I -- I don't recall ever getting them, but I don't know if he was ever successful on making them all three that serial number.

Q What's an FTP?

A FTP is like a file transfer protocol.

Q And describe what that is.

A Basically you set up an FTP on a -- on a server. From that point you can go and you can upload or download files and share them with other people that have the log-in credentials.

Q Okay. And did you have an FTP?

A I've had lots of FTPs over the years.

Q Was there an FTP that you and Ken both had access to?

A Yeah. There was one -- I think it was named "Uncle Fucker," and that was used for Ken. I remember using it once or twice, but I don't remember what it was for.

Q Was -- is an FTP, like, in the cloud, or is it on a server at someone's house?

A It can be either/or.

Q All right. Did Ken have a server at his house that had an FTP on it?

A Not -- I don't know. Not to my knowledge.

Q All right. Well, here on this May 6th, you wrote, I need you to pull the shit off the FTP. Do you see that?

A Yeah.

Q And then you wrote, It can't sit there. I put up another folder. He writes, Ugh. And then, Just text me that. I just did LOL, you wrote.

A Yeah.

Q You wrote, Pull both folders and let me know when you have them.

A Yeah.

Q Do you see that? And he says, I have both of them already.

Why did you need him to pull the stuff off the FTP? Was this cos it was at his house or because you were out? Do you remember this?

A I think it was because I was out. And actually now looking through this, this would have been the resources.db that had been dumped out that has all of the -- the boot loaders and binaries for the boot loaders out of the HTP resources database. The boot loaders are going to be the manufactures' boot loaders and then there's, you know, some that they've modified and stuff

like that. But I think Ken was asking me for it for something at one point.

Q How -- was this stuff that you had, or was this HTP information that Ken had?

A This was stuff that Chris and I had reverse engineered.

Q And Ken had access to it?

A Well, after I uploaded it onto the FTP, then yes.

Q Right. And then he downloaded it, it says?

A Yep.

Q Where -- where did he download it to?

A From the FTP that was set up.

Q Yeah, but where did he download it to; do you know? His device?

A It would be on one of -- a computer that he has. I don't know if laptop, desktop or what.

Q So these would have been files that you and Chris had reverse engineered that contained HP Tuners' information?

A Not exactly.

Q Okay.

A I mean, I can try to explain.

Q Please.

(Portion of deposition excerpted in separate transcript.)

Q (By Mr. Bleiman) So then you wrote, Nice work man. When

are you going to meet my friend on Facebook? Do you see that?

A Yeah.

Q So that's still, you know, again because we're trying to hide the fact that you guys were working on this together; is that right?

A Correct.

Q So then on Page 111 at 9:57 a.m., he writes -- or Ken writes, I already told you I have to use HPT code to test the rest as there is no support in our software for a lot of stuff. Do you see that?

A Yes.

Q So here he was using the HP Tuners code to test the eliminator cable because the Syked software hadn't been fully developed yet?

A So in this particular instance he's talking about the VPW communications, which is an older protocol that's used by General Motors. What he's -- what I believe that he was doing, and what I recall him doing, was using the VCM admin version of the software to manually send out CAN requests to test it, which, yeah, I guess you need HPT code to test because you have -- we don't have VPW or PWM implemented into the Syked software. We do CAN bus only.

Q Okay. On Page 119, this is about May 16th of 2018, Could you call please. It's super important, you said to him.

Do you have any recollection of what was going on back then that merited that text?

A I don't.

Q And then on the next page there's some communications here about sending something to Dave Casper.

A Yeah. So it was one of the -- one of the eliminator cases that was hand-cut, I wanted him to send it to Dave. They have access to a 3D printer, so we were talking about getting those -- getting the cases 3D printed for the first batch of cables that we were going to do.

Q Okay. And then there's some images, 120 and 121 of the MPVI2?

A Yeah.

Q And then you wrote, It works. And then Ken says, Well done. What are you talking about here?

A So the images are just showing him that they released the MPVI2.

Q Okay.

A The "it works" must have been something I tested to do with our software and the eliminator. I've never had an MPVI2, so I wouldn't have been referring to that.

Q Okay. So then here on Page 126, there's some communications, it looks like, between you and Keith and Chris.

A Yes.

Q Who's CH? Just Chris?
A Chris, HP Tuners; and KH, Keith, HP Tuners.
Q So now -- and then Ken's telling you to do a follow-up e-mail, right?
A Yep.
Q So then on Page 129 you wrote, Call me. And then there's a number of texts. It sounds like Ken really starts to go in here into this. This relates to the phone numbers and how you got them; is that right?
A Yes.
Q And basically he's telling you what to say or where you would have gotten these numbers, right?
A Yeah.
Q And then he's also telling you, you know, to go nuclear; all done, open source?
A Yep.
Q What's going on here?
A I think it was in regards to the GM names. You know, it's in the middle of the litigation. He said, Give them the A2L, talking about giving the A2L with the GM stuff in it. You can't -- you know, rename the name and you -- and you now own it, you know, which he's -- must be typing fast. When I sold info to Ken, he told me Chris and Ion would work on Dodge.
Q He's telling you what to say?

A Yeah --

Q You sold --

A -- I don't even remember.

Q Well, you were the one that sold the info, correct? So he's basically saying when I sold info to Ken he told me Chris and Ion would work on Dodge? Like he's basically telling you what to say there.

A Yeah.

Q And he goes, Fuck it. Go nuclear, right?

A Yeah.

Q And then this notion of open source?

A (Nodding head.)

Q So with regard to this A2L and the naming, are we talking about the parameters' names?

A Yes.

Q And those are the parameters' names that you pulled from the HP Tuners information?

A But not what Ken gave me?

Q From the software you said.

A We dis- -- it was something Chris and I disassembled from the software, yes.

Q So based upon the disassembled software, then you were able to pull the parameters' names?

A Yeah. We got -- yeah. I --

Q How did you do that?

A (Gesturing.)

(Portion of deposition excerpted in separate transcript.)

Q (By Mr. Bleiman) Yeah. So then if you look at the Page 130.

A (Witness complies.) Okay.

Q There's a text that Ken wants you to send a copy of him to, but kind of like a draft of what he's telling you to say.

A Yeah. I don't think I ever did send it.

Q Okay. And then there's this picture on the bottom. Do you see that?

A Yeah. I sent that to him.

Q What -- what is that picture?

A Oh, I sent it because it has the name ECU Master on the bottom of the -- of the one piece of hardware --

Q Right.

A -- and so I was just like, Hey check this out.

Q And you wrote on the next text on the next page, Found ECU Master?

A I was joking.

Q Right. Okay. On Page 132 it says -- Ken writes, Can you resend me the pin out for the GPEC2?

A Yes.

Q What is that?
A GPEC2 is a Dodge engine controller, and he had -- he had one. I mean, that was what's in his Jeep, and so he was testing on the bench and he needed to hook up a bench harness, so I sent him the pin out for it.
Q Okay. Then if you look at the bottom, John says he got the firmware flasher done.
A Yep.
Q Is that for Syked software?
A Yes.
Q So then if you look at Page 135, Ken writes a text at 7:31 p.m., Log sent. Do you see that?
A I'm sorry. What time?
Q 10 -- 7:31.
A Okay.
Q What would that -- what type of log would he be sending to you?
A It was a log from the Syked software.
Q All right. On Page 141, you wrote, Perfect. I posted shit on HPT at 9:13 a.m. Do you see that?
A Yeah.
Q So that was just like a Facebook post or something like that?
A Probably one of my immature rants.
Q Okay. And then on the next page, the same day, Page 142,

in the middle of the page, 7:56 -- or 7:54, Now go fix the buffer on your end like I told you.

You wrote, It's not that easy. You don't understand how our code has changed. So I have a cable with filter off. It isn't going to happen. Set -- get the set config so I can shit -- I'm sorry -- you're saying shut off filter and it will be easier?

And then Ken wrote, You have one. The older MPVI does not have a filter. Do you see that?

A Yeah.

Q So what is that? He's telling you to use the older MPVI in connection with testing some of the Syked software?

A So that would have been the original piece of hardware he sent with -- with the alleged new firmware loaded into an MPVI, so it would be an MPVI hardware with eliminator firmware loaded into it.

Q Okay. But the fact that the MPVI doesn't have a filter, I believe the HP Tuners did not have a filter.

A The filter would be right at the end of the firmware.

Q Okay.

A And alls it does is just -- it throws away -- it throws away CAN'd bus messages from a range of ID -- CAN IDs, so I told him I wanted a filter put in that shuts everything off from coming through it for testing purposes, because we were having a lot of communication issues on figuring

out how to make our code work.

Q So basically what -- this MPVI that you provided -- or strike that.

The MPVI that Ken provided to you, you believe it was somehow -- strike that.

Did Ken communicate to you that the MPVI that he provided to you was an HP Tuners MPVI with HP Tuners firmware or had it been modified with apparently new firmware to be used with Syked?

A It had been modified.

Q Okay. But in terms of how it was modified, we talked about that earlier, what you believe the differences to be?

A Yes.

Q Why was he using MPVI as opposed to some other device that he would write the firmware into?

A Originally, he hadn't done a new design, or what he said was a new design, and we needed a test vehicle communication, so he, you know, told me he was doing new firmware first. We'd load it into an MPVI hardware, send that to us for development and testing purposes with our communication structure while he develops the new hardware directly.

Q Okay. So the new board basically?

A The new board.

Q Okay. So the MPVI would just have had modified firmware in some way to your understanding?

A Yes.

Q Would he have -- well, strike that.

To your understanding, if you just buy an MPVI, are you able to modify the firmware in that MPVI unless you hack it?

A Unless you hack it, no.

Q Okay. Or if you have permissions from the software or some communications-related program files to make changes to it?

A Yeah. I mean, you would have to -- I don't have the knowledge on directly how to do it. You'd either have to have the source code, the ability to compile the source code, or the ability to reverse engineer, and/or hack it.

Q Mm-hmm. Let's take a look at Page 153.

A (Witness complies.)

Q On June 10, 2018, you wrote, Someone released a cracked 4.0 that works on the new MPVI to, t-o. Do you see that?

A Yes.

Q And then Ken writes, You, correct?

A Correct.

Q And that's the 4.05 release that we talked about earlier that you did?

A Yes.

Q All right. Then if you look at Page -- well, why don't we -- we have to change the tape I think, and we'll go off the record and change the tape and then we'll just finish the remaining texts.

THE VIDEOGRAPHER: All right. This is the end of Media Unit No. 2 in the video deposition of Kevin Sykes-Bonnett. We're going off the record. The time is 4:18.

(Recess from 4:18 p.m. to 4:30 p.m.)

THE VIDEOGRAPHER: All right. This is the beginning of Media Unit No. 3 in the video deposition of Kevin Sykes-Bonnett. We're on the record. The time is 4:30.

EXAMINATION (Continuing)

BY MR. BLEIMAN:

Q Okay. Sorry. Give me one second. Okay. All right. Let's look at Page 161.

A (Witness complies.)

Q Here you and Ken were having a little bit of a disagreement over some functionality of the software on the eliminator cable; is that correct?

A Correct.

Q And Ken writes to you at 11:04 a.m., What irritates me,

Kevin, is all of this works flawlessly on the MPVI and VCM Suite. Then you tell me it can't happen because of the way you wrote your code and you can't change it -- there was a spelling mistake -- from an engineering standpoint, what does that tell you? If this were a big company and you were an employee, the boss would make you redo it, not me. Buffer size has nothing to do with this. Do you see that?

A Yes.

Q Okay. So here he's saying this works flawlessly on the MPVI and VCM Suite. What is he talking about?

A He's referring to vehicle communications on reading and writing.

Q So is this eliminator cable working with the VCM Suite?

A No.

Q Okay. So basically what he had created for HP Tuners with regard to the communications between the MPVI and VCM Suite worked perfectly so it should also -- the product or the communication that he developed for the eliminator cable and the Syked software should also work the same way?

A I -- I mean, it -- it should work as well, yes, is what he's saying. We -- we deal with processing vehicle data entirely and completely different than the way HP Tuners does it, and so we struggled for a long time with a lot

of timing issues on being able to successfully, you know, reprogram vehicles, that kind of stuff, and I wanted him to change the way he was doing the code in the eliminator to give me more flexibility on the timing, and he refused to do that.

As -- as you see in the text message, he says it works fine with the VCM and the MPVI so you should be able to make it work with the Syked and the eliminator.

Q So then on Page 162 then he -- he writes at 11:14 a.m., You need to have this conversation with FTDI. Have you reached out to them yet? I'm positive they know about it.

A Yes.

Q And is that FTDI, that -- that's the chip that we're talking about that's in the -- the MPVI?

A It's -- it's in hundreds of thousands of hardware devices out there. I mean, it's even in the Hypertech handheld, that kind of stuff.

Q Okay.

A It's a chip you use to communicate through -- or, you know, from a USB port on any type of laptop or computer device.

Q All right. So then on June 20, 2018, Ken texts you, I just sent you some PDF files you and Mike need to read, at 8:24 a.m. Do you see that?

A Yes.
Q And then you wrote, We have an idea but have to rewrote the code which is going take three to four weeks. Do you see that?
A Yes.
Q And then Ken writes, That's fine. Just read all the documents on how their packetizing works and read Keith's to get an idea of how he did it.
What is he talking about there?
A I believe the first part, read all the docs, he's referring to, like, Motorola or Bosch documents, and that's where the PDFs come into play. And then, read Keith's, you know, he's talking about, you know, look at Keith's code.
Q Okay. So --
A But I made it very clear I'm not doing that.
Q -- what were the PDF files that he sent to you in June 2018?
A I'm -- I'm assuming that's going to end up being Motorola and Bosch protocol documents.
Q Okay. Do you know what e-mail he sent that to?
A I don't know.
Q All right. So then on Page 164, he's asking you -- Ken's asking you, Ask Whitaker what the legal definition of noncompete is. Do you see that?

A Yep.
Q So here again, he's trying to communicate with you about whether he's done things that may have violated the noncompete or not prior to April of 2018 -- April 20, 2018.
A Yes.
Q Here on Wednesday July 11, 2018, you wrote at 1:10 p.m., HPT filed 11 more lawsuits. Do you see that?
A Yes.
Q And then Ken says, Anyone we know? Do you see that?
A Yep.
Q And then you wrote, The names are John Doe, so they aren't saying names. And then Ken writes, Did your lawyer give them the info -- that info I gave. Pretty much nullified any of their claims?
A Yes.
Q What "info" is he referring to there?
A He gave me a folder full of e-mails between him, Motorola, and I think Superchips, and possibly Keith and Chris were in these e-mails about their hardware cable hack that had been going on as early as 2007. So it was e-mails from around 2007, 2008ish, that talked about, you know, the MPVI being hacked.
Q Okay. Do you have those e-mails?
A I might somewhere.

Q Okay. I don't know that we've gotten those. All right. Here on Page 169 there's some cables he's asking you about: What should I make the serial number. Are these Syked eliminator cables?

A What --

Q 169, 170?

A Yes.

Q Take a look at Page 177.

A (Witness complies.)

Q It says, 10 interfaces check out from -- and then it's got some serial numbers.

A Yes.

Q Okay. Do you know why there's 10 numbers in the serial number?

A No.

Q Okay. And then -- so Ken was actually preparing these interfaces for shipment?

A Yeah. The eliminator?

Q Yes.

A Yes.

Q So then take a look at Page 199.

A Okay.

Q You wrote to -- well, actually, let's start on 198. Friday, August 17, 2018, 3:03 p.m., HPT has 896 pages of all my e-mails from Canada. Do you see that?

A Yep.
Q And that's referring to Christopher Breton-Jean?
A Yes.
Q And then Ken writes, What is wrong with you. How did you let this happen. And then you wrote, I don't know how he did man. That info e-mail was on website host. I think he back doored. Do you see that?
A Yes.
Q And then you [sic] wrote, Is it stuff between you I? And then you wrote, I'm not sure yet. Waiting to get it all. And then Ken says, What e-mail address? And you wrote, Info@sykedecutuning.com. And then he writes, You suck man. Do you see that?
A Yes.
Q So the 896 pages was because it was like the -- the source code control or whatever it's called of the e-mails, not that there were 896 e-mails; is that right?
A I -- I don't. I'm not sure. Was there 8 -- if there was 896 pages in the production, I would have been referring to that. Otherwise, I would have went and looked.
Q It actually was only like three or four e-mails. Are you aware of that?
A No.
Q Okay.
A I mean, I -- I spent the time when I first came through

to read through it all, and it was mostly --

Q Well, mostly it was digits.

A -- just over and over and over.

Q Okay. But -- so did -- did he, Christopher Breton-Jean, get access to these e-mails while you were on the TeamViewer with him?

A No.

Q Okay. Do you know how he got access?

A I believe I do.

Q Oh. How?

A So the password that I used to log in for the Info@sykedecutuning.com e-mail was the same password I used for that e-mail address to log in to the back end of our software server, which Chris did work on. All the passwords are -- that are stored in the server database are encrypted. Well, being that Chris is the one who helped write the code to do the encryption, he could obviously de -- de-encrypt it.

So after all this took place and I found out about this, I started trying to figure out how he came up with it. So the conclusion that I've came to based on what, you know, research I've done, is that Chris took all of the, you know, the passwords out of my server database for the software, decrypted my password, and then I believe that he attempted to use that logging in to a lot

of my different accounts, and this was the only one that it was tied to, was the Info@sykedecutuning.com, which is how he got those e-mails, which were then sold to HP Tuners for a reward.

Q Okay. So -- okay. Then you wrote, HPT paid someone to hack my e-mail. This is fucked up. I'm sorry, Ken. I have no clue how this happened. The only way he could have done this is back door the website server and dump the e-mails. Do you see that?

A Yeah.

Q So, you know, based upon what you're saying, it's -- he -- he didn't hack. He just logged in essentially to your account when --

A By --

Q -- he shouldn't have.

A No. Not exactly. I mean -- so -- I mean, if -- if he took the encrypted passwords out of the software's database --

Q Oh, he --

A -- decrypted it --

Q I thought you said he knew your passwords --

A No.

Q -- and then he just --

A No. He never knew my passwords.

Q Got it. Okay.

A Yeah.
Q Okay.
A So he decrypted the passwords that -- so -- so the software has a back end and an administration panel that I can log in to to manage the customers for the software specifically.

The pass -- login screen requires a username and password. The password that I used for that -- for the logging into the software server was the exact same password that I used for this specific e-mail account, but I didn't use it on any of my other accounts. So any of the other e-mail accounts or any of my personal, you know, stuff I never used a specific password. This -- you know, password, was used in two locations, on the software server side and on this e-mail address.

Q Okay.
A And so because Christopher Breton-Jean had done the server work, he had access to the server code and the server database, so he took the code, extracted my password, and then used my password to log into it --
Q Okay.
A -- which he had no permission, and he never had that password.
Q Okay. So then Ken writes, Delete all those accounts now. Do you see that?

A Yeah.
Q And then you write, I am backing them up and deleting all my shit. Changing server host and all. Do you see that?
A Did exactly that.
Q Did you -- did you -- what did you delete?
A I didn't delete anything. Well, I backed everything up --
Q Okay.
A -- and I moved everything over to a new server.
Q So then Ken starts to talk about stolen information. And you don't have any information that HPT instructed Christopher Breton-Jean to do this, do you?
A No.
Q Take a look at Page 200 and 201.
A Okay.
Q It's actually 201 I guess it starts on, but there's a text message, a screenshot. Do you know what that is from?
A (Witness peruses document.) Yeah. It's from one of our customers. On 201?
Q Yeah.
A Yeah. It's from one of our customers who uses our software.
Q Got it. Okay.
A He's telling me the same thing that everybody's always

said, our pricing's too low, which we finally raised our prices up a little bit.

Q So then on August 21st, 2018 on Page 202, Ken writes about, I figured out a way we can open source this and still make money. Do you see that?

A Yeah.

Q So he wanted to just publicly release all the source code?

A He can want all he wants.

Q Take a look at Page 214.

A (Witness complies.)

Q There's some error that you're referring to at like 12:18 p.m., and then Ken writes, I don't have the stock cal in your format. HPT only. What is he talking about here?

A He's talking about the stock calibration file for his Jeep.

Q Okay.

A So he read out the stock file with HP Tuner software.

Q Okay. So on September 30th he's asking you for Whitaker's phone number?

A Yeah. I think Whitaker had left Lane Powell at that time. I don't know why he wanted it.

Q Page 230.

A (Witness complies.)

Q Here is the picture you're talking about.

A Oh, yeah.

Q All right. And then Ken writes above that, And fucking tell him about Canada already. What is he referring to here?

A About Canada hacking the software and everything that him and I had done.

Q And who is Ken telling you to say this to?

A To you guys, HP Tuners. (Witness peruses document.) Pretty sharp looking guy.

Q So based upon -- I know we've covered this, you know, in terms of the images that -- that we went through earlier with what was on the flash drive and whatnot -- Ken would have possessed those items that he provided to you at the time he provided them to you, correct?

A Correct.

Q And that would include the MPVI documentation, source code, key generation, the program files, and those types of things, correct?

A As far as him possessing them or him giving them to me?

Q Giving them to you and ultimately that means he had them?

A Well, some -- some of what you just asked, he -- he didn't provide to me. He didn't provide me any of, you know, the firmware files and things like that.

Q I didn't say firmware. Program files, key generator --

A Oh, okay.

Q -- source code.
A Yeah. So not source code for the MPVI, but source code --
Q -- for the software --
A -- for the software. Yes.
Q Got it.
A Yes.
Q All right. Has Syked paid Ken any money?
A No.
Q And you believe that Ken paid Syked nothing and Bobbie may have contributed 50,000 over time?
A So every time that money was deposited into the account, my understanding is that Bobbie was the one going there -- down there to deposit it. Obviously, she'd be on camera.
Q Now, did you guys use U.S. Bank also?
A No. That's my personal.
Q Okay. Was there talk about setting up an account at U.S. Bank and then ultimately you went to Wells Fargo?
A Yeah. They messed up on some of the things. We originally set up an account there, and they were supposed to send the paperwork down to Reno for Bobbie to go in and sign it to be on the account, but somehow they lost the paperwork when they were sending it from -- from up here to Reno. And so it kind of, you know, bothered

me a little bit. And I'm like, Well, if you're going to lose the paperwork to get an account open, then forget it. We'll go somewhere else.

Q And then as far as, did Ken pay Sykes' -- Sykes' legal fees in connection with this case?

A No.

Q When you spoke with Bobbie initially about becoming an investor, did you communicate to her that the reason it was going to be in her name was so that -- you know, Ken wasn't on it because it was a noncompete?

A I don't recall actually.

Q So she just suddenly became an investor before you ever spoke to her?

A Yes.

Q So this idea that Bobbie would be the owner was something that Ken came up with and implemented, and -- is that correct?

A Correct.

Q And before she became an investor and the documents were prepared to put her name on it, had you ever spoke with her about being an owner?

A No.

Q So any testimony you would have provided previously on those lines, you're correcting that today?

A I am, yes.

Q Okay. Yeah. I asked you earlier -- I found -- found my list. You don't remember how many credits were generated for Hamilton, Neablis, Groo, or Alexander?

A They had forwarded me -- some of them had forwarded me the initial e-mails that you had sent to them, which indicated how many credits they were supposed to have, how many credits they were to have. I estimated, based on the amount of credits that were used, there should be 60 to $70,000 in damages. So I could break those down into $50 a piece, you know, that kind of stuff.

Q So that was the used credits.

A That was --

Q Do you know how many were generated?

A No.

Q Did you max these interfaces out?

A No.

Q No?

A No. The only ones I believe that I maxed out would have been the Mustang shop. I had 1,000/1,000/1,000, and it would have been Christopher Breton-Jean's at 1,000/1,000/1,000.

Q And what about Jay Enberg?

A I don't believe I gave him 1,000 across the board. I think I gave him a 1,000 GM only.

Q Okay. Why did you give those to him? Did you owe him

for something?

A No. Him and I have known each other for six, seven years at least. And, you know, I was talking to him one day and I said, I can get you some GM credits, because he was tuning some GM cars. And you know, he's always -- he's always been good to me. He developed the N2MB box, and if I need one for my own car, you know, for anything, if I call him up and say, Hey man, will you send me an N2MB box, he'll -- he'll send me one and won't charge me for it, so we just kind of look out for each other.

Q Okay. And then what about John Lambert? What were --

A John Lambert, I think I gave him a hundred of them. We were on a phone call one day, you know --

Q Hundred what?

A Hundred GM credits, I think.

We were on the phone one day, and he said he was at a buddy -- buddy's car or something he was going to tune, and I was like, Hey, man, I can get you some credits, you know. And so I generated a few for him, you know, just to -- I'm kind of trying to go off of recollection, and it's been quite a while.

Q Yeah.

A If it was 110, don't --

Q So basically, for the folks that had a certain number on there and a certain number used, it would have been

whatever -- you know, what -- whatever was on there above what we had records of, those would have been generated by you?

A I mean, if you -- yeah. Because you guys keep records just like we do.

Q Right. So we -- if we knew we generated 100 credits or they should have had 100 credits available, and it had 1,000 credits available --

A Then I generated 900.

Q Got it.

Okay. And for the PayPal ones with the Lani Carney account, it would have just been whatever that price was divided by 25 would have shown how many credits were issued?

A I -- I mean, it's -- potentially. I mean, I can look at the sheet and see. You know, I know there was -- I -- I had posted up as ECU Master to make donations towards -- towards the cause, and I think some people went on there and made some donations that weren't credit related, but I'd have to go back and look.

Q On the -- for the PayPal?

A Correct.

Q Why don't we just go through that real quick. Was that Exhibit -- I forget the number of that exhibit.

Exhibit --

A 18.

Q 18. Yeah. It's hard to see, but there's --

A (Witness peruses document.) So the total amount received was -- it looks like $1,052 -- or $1,092.58. I mean, divide that down by 25 bucks and we'll call it that many credits. I mean, I'm not going to nickel and dime. I mean, if it's 50 bucks more than what it should actually be, I mean whatever.

Q Okay.

A I mean, $1,092 divided down by 25 will give you an indication of how many credits that were sold. Like I said, there were a few people that had came and sent over a donation, but I imagine it wasn't more than 50 or a hundred bucks on that.

MR. BLEIMAN: Okay. All right. I don't have any further questions right now. Thank you for your time.

MR. MANN: No cross-examination, and we'll reserve signature.

THE VIDEOGRAPHER: This concludes the video deposition of Kevin Sykes-Bonnett, consisting of three media units. We are going off the record. The time is 4:58.

(Signature reserved.)

(Videotaped deposition

concluded at 4:58 p.m.)

A F F I D A V I T

STATE OF WASHINGTON)
) ss.
County of Pierce)

I, Kevin E. Sykes-Bonnett, hereby declare under penalty of perjury that I have read the foregoing deposition, Volume II, and that the testimony contained herein is a true and correct transcript of my testimony, noting the attached corrections.

_____

Kevin E. Sykes-Bonnett

Date: _____

STATE OF WASHINGTON)
) ss
County of Pierce)

I, Tracey L. Tracy, CCR, RPR, a certified court reporter in the State of Washington, do hereby certify:

That the foregoing videotaped deposition of KEVIN E. SYKES-BONNETT, VOLUME II, was taken before me and completed on May 16, 2019, and thereafter was transcribed under my direction; that the deposition is a full, true and complete transcript of the testimony of said witness, including all questions, answers, objections, motions and exceptions;

That the witness, before examination, was by me duly sworn to testify the truth, the whole truth, and nothing but the truth, and that the witness reserved the right of signature;

That I am not a relative, employee, attorney or counsel of any party to this action or relative or employee of any such attorney or counsel and that I am not financially interested in the said action or the outcome thereof;

That I am herewith securely sealing the said deposition and promptly delivering the same to Andrew P. Bleiman.

IN WITNESS WHEREOF, I have hereunto set my signature on the 23rd day of May, 2019.

Tracey L. Tracy, CCR, RPR
Certified Court Reporter No. 3430
(Certification expires 04/19/20.)

SIGNATURE PROCEDURE INSTRUCTIONS TO ATTORNEY

Date: May 23, 2019

To: Philip P. Mann

Mann Law Group

107 Spring Street

Seattle, WA 98104

Case: HP Tuners, LLC vs. Sykes-Bonnett, et al.

Cause No.: 3:17-cv-05760-BHS

Videotaped Deposition of: Kevin E. Sykes-Bonnett, Volume II

Date Taken: May 16, 2019

The above transcript must be read and the Correction Sheet signed within 30 days of this notice or before the trial date. If the Correction Sheet is not signed within that time period, signature will be deemed waived for all purposes.

Please contact the witness and arrange a convenient time and place for reading and signing.

After the Correction Sheet is signed, please mail the signed original Correction Sheet to:

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Marks & Klein

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Northbrook, IL 60062

Reporter: Tracey L. Tracy, CCR, RPR

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CORRECTION SHEET

Videotaped deposition of: KEVIN E. SYKES-BONNETT, Volume II

Date: 05/16/2019

Case: HP Tuners, LLC vs. Sykes-Bonnett, et al.

Cause No.: 3:17-cv-05760-BHS

Reporter: Tracey L. Tracy, CCR, RPR

Instructions: Please carefully read your deposition and on this correction sheet make any changes or corrections in form or substance that you feel should be made. You may add additional sheets, if necessary. After completing this form, please sign your name in the space provided.

Please do not mark the transcript. Thank you.

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